

**THE PRESIDENT'S COMMISSION ON EXCELLENCE  
IN SPECIAL EDUCATION**

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**HEARING**

BEFORE THE

**COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS  
UNITED STATES SENATE**

**ONE HUNDRED SEVENTH CONGRESS**

**SECOND SESSION**

ON

**EXAMINING RECOMMENDATIONS OF THE PRESIDENT'S COMMISSION ON  
EXCELLENCE IN SPECIAL EDUCATION REGARDING THE INDIVIDUALS  
WITH DISABILITIES ACT OF 1997 (IDEA)**

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JULY 9, 2002  
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Printed for the use of the Committee on Health, Education, Labor, and Pensions



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## **THE PRESIDENT'S COMMISSION ON EXCELLENCE IN SPECIAL EDUCATION**

**TUESDAY, JULY 9, 2002**

UNITED STATES SENATE,  
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,  
*Washington, D.C.*

The committee met, pursuant to notice, at 2:30 p.m., in Room SD-430, Dirksen Senate Office Building, Senator Kennedy (chairman of the committee) presiding.

Present: Senators Kennedy, Harkin, Murray, Reed, Clinton, Gregg, Roberts, Sessions and DeWine.

### **OPENING STATEMENT OF SENATOR KENNEDY**

The CHAIRMAN. We will come to order. This afternoon we will hear testimony on the President's Commission on Special Education recommendations to strengthen the Individuals with Disabilities Education Act, IDEA, so that all children with disabilities in all parts of the country will receive the best possible education.

The enactment of the Education for the Handicapped Act in 1975 and the alter passage of IDEA began a period of needed progress in opening schoolhouse doors to millions of students with disabilities, providing children with opportunity to learn alongside their nondisabled peers and live independent and productive lives. Before 1975 more than a million children with disabilities received no educational instruction at all and countless others remained unaccounted for. IDEA has worked well to reverse long-standing and unacceptable policies and practices that denied opportunity for so many children with disabilities.

As our committee considers the reauthorization of IDEA and the progress made under this important act, we all recognize that much remains to be done in order to achieve the goals of the act. As the commission report points out, children with disabilities now have access to education but they do not always have access to the quality of education they deserve to succeed in school and in later life.

It is clear that improving the level of academic support and instruction available to children with disabilities requires adequate funding.

For many years the Federal Government has failed to live up to the promise it made when IDEA when enacted to fund 40 percent of the cost of meeting its requirements. As a result, students, parents, teachers and schools across the nation continue to be cheated on the resources that the Federal Government promised them al-

most 30 years ago. Clearly we can do better and we need to do better.

We want to thank all of our witnesses here this afternoon for being with us. We want to welcome former Governor Branstad. Terry Branstad is the chairman of the President's Commission on Excellence in Special Education. Before serving on the commission Mr. Branstad was governor of Iowa for four consecutive terms. Education was a top priority of his administration. One of his accomplishments was building fiberoptics networks so that children across Iowa had distance learning opportunities.

Mr. Branstad has demonstrated his leadership capabilities in several contexts. He has been chairman of the National Governors Association and Republican Governors Association and the Education Commission of the States.

We have been joined by Senator Murray and I understand she would like to introduce our next witness.

Senator MURRAY. Thank you very much, Mr. Chairman. It is my pleasure this afternoon to welcome Doug Gill to this hearing. Dr. Gill brings a wealth of experience and insight to both the President's Commission and this hearing as a former special education teacher, professor of education, educational consultant and State and local administrator. He currently serves as the State director of Special Education for my home State of Washington and has been a valuable member of Washington's Office of the Superintendent of Public Instruction since 1990.

During his tenure as our State director, Dr. Gill has led the effort to revise Washington's funding formula for special education and create a safety net that supplements funding when district costs for special education exceed available revenues.

Before becoming our State director, Dr. Gill was the director of a cooperative in Pierce County, Washington. Under his leadership that cooperative was so effective in improving post-school outcomes for special education students in vocational education programs that he received a national award for exemplary research.

Dr. Gill has consulted in 28 States and British Columbia, has served on several State and national panels and has authored numerous articles and publications on special education. He received a bachelor of science in special education from Augusta College in Georgia, a masters degree in education from the University of Georgia, and a doctorate in educational leadership from Seattle University.

Doug, I really want to thank you for joining us today and for all your work on the presidential commission but most importantly, I want to thank you today for your many years of ensuring that all of the children in our home State of Washington receive a quality education. I think your service and commitment really exemplify the reason we have come so far in improving education for children with disabilities and your leadership is going to help us continue that progress. So thank you very, very much for traveling all the way out here today and for your testimony and willingness to help us work through a very complex issue.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

We are joined by Senator DeWine, who I know wants to introduce Douglas Huntt and we will be glad to hear from him.

Senator DEWINE. Mr. Chairman, thank you very much. I really appreciate your giving me the opportunity to introduce my good friend and fellow Ohioan, Doug Huntt. Doug is a nationally recognized leader in disability policy and the employment of people with disabilities. With his education, his experience, his first-hand knowledge of disability issues, he is really an invaluable presence, Mr. Chairman, on the President's Commission on Excellence in Special Education.

So it is a privilege for me to introduce Doug to the committee and tell my colleagues a little bit about Doug's background and his experience. He received his undergraduate degree in secondary education from Ashbury College, his masters degree in social service administration at Case Western Reserve University and his doctorate in social work from the Ohio State University.

Additionally, Doug served as the chair of the Ohio Governor's Special Council on People with Disabilities from 1991 to 1999. He has five years experience as director of the Family Mental Health Service in Wooster, Ohio and served as chairman of the Transition from School to Work Task Force on the President's Commission.

Doug currently serves as a commissioner for the Ohio Rehabilitation Service Commission. In this position he helps facilitate the transition from school to work for people with disabilities. Doug also currently is serving as the executive director of Assistive Technology of Ohio. Mr. Chairman, this is a federally funded agency devoted to promoting policies and programs to ensure increased availability and affordability in technologies to people with disabilities.

Ultimately Doug brings hands-on experience and unique perspectives to the President's Commission in his professional role and personal experience with his disability. Therefore, Mr. Chairman, I know he brings a great insight to the Commission and will be very helpful to our committee today.

Doug, thank you very much for joining us and I thank all our other members, as well.

The CHAIRMAN. We have been joined by Senator Gregg. We would welcome any comments that he might have.

Senator GREGG. Thank you, Mr. Chairman. I would really like to hear from the Commission. I have had a chance to read their work and I just put a candy in my mouth so I am not going to talk.

I would like to listen to you. I think you did a good job. What I have read is excellent and I look forward to having your input. It is nice to see Governor Branstad again.

Mr. BRANSTAD. Thank you.

The CHAIRMAN. We are joined by Senator Harkin. We have had a formal introduction of Governor Branstad but we know that you wanted to extend a word of welcome and I recognize you for that purpose.

Senator HARKIN. Thank you very much, Mr. Chairman. I apologize for being a little late.

And to our distinguished panel who is here, I did want to welcome all of you but I especially wanted to welcome my long-time friend and colleague, even though we are on opposite sides of the aisle, Governor Branstad. I don't know how he was introduced but

Governor Branstad has spent the better part of his adult life in public service. He served as a State representative from 1972 to 1978 and as lieutenant governor and then as the longest-serving governor in Iowa's history, for four terms.

Senator GREGG. I think in any State's history, actually.

Senator HARKIN. Well, I do not know. I have never been in every State. I have not lived in every State.

Senator GREGG. When I became governor he had been governor forever and when I left he was still governor.

Senator HARKIN. Well, he certainly set a record. I can tell you that. But I say publicly to Governor Branstad we worked together on getting what I think is the best state-of-the-art technology in education in the Iowa Communications Network. It continued Iowa's long-time role as a leader and innovator in education. We linked all of Iowa's schools, high schools, colleges, all together with the latest in interactive technology. It was no small feat and I thank you, Governor, for taking the lead on that and I was proud to work with you on that.

So Mr. Chairman, I am just pleased that President Bush chose a fellow Iowan to head this Commission on Special Education. As you know, special education has been a long-time personal interest of mine. And while I may not agree with some aspects of the commission's recommendations, I look forward to working with you and with Governor Branstad and the Bush administration on a bipartisan basis to do what is right by our children with special needs.

So again, Governor Branstad, we welcome you and I thank you for this latest public service that you have performed.

Mr. BRANSTAD. Thank you, Senator Harkin.

The CHAIRMAN. Commissioner Branstad, we would be glad to hear from you.

**STATEMENT OF GOVERNOR TERRY E. BRANSTAD, CHAIRMAN,  
PRESIDENT'S COMMISSION ON EXCELLENCE IN SPECIAL  
EDUCATION, WASHINGTON, DC**

Mr. BRANSTAD. Thank you. Good afternoon. Thank you, Chairman Kennedy, Senator Gregg, Senator Harkin, all of the senators, Senator Roberts, who I worked with back on agriculture debt restructuring many years ago, Senator DeWine, Senator Murray.

It is an honor and a privilege for me to be here today to testify before this distinguished committee and to tell you about the work of this commission. This commission had a very talented and diverse group of people and I am very proud of the detail and quality of work that the commission has done.

I am pleased to report to you that the President's Commission on Excellence in Special Education has finished its work. The commission met its July 1 deadline for transmitting its report to President Bush. This afternoon I will outline for you the commission's major findings and recommendations.

On October 2, 2001 President Bush ordered the creation of the commission. In his executive order he made the following statement and I quote: "The education of all children, regardless of background or disability, while chiefly a State and local responsibility, must always be a national priority. One of the most important goals of my administration is to support States and local com-



munities in creating and maintaining a system of public education where no child is left behind. Unfortunately, among those at greatest risk of being left behind are children with disabilities.”

The President charged the commission with studying issues related to Federal, State, and local special education programs in order to improve the educational performance of students with disabilities. The commission’s effort represented the most expansive review of special education in the 27-year history of the Individuals with Disabilities Education Act. The 24-member commission held 13 open hearings and meetings across the country. At those meetings and hearings we heard from 109 expert witnesses and more than 175 parents, teachers, students with disabilities, and members of the public. Hundreds of other individuals provided the commission with letters, written statements, and their research.

Our report is entitled “A New Era: Revitalizing Special Education for Children and their Families.” There are three broad recommendations that form the foundation of the report. I am just going to hit on those and then move on to the other witnesses.

Major recommendation number one: focus on results, not process. IDEA must return to its educational mission—serving the needs of every child. While the law must retain the legal and procedural safeguards necessary to guarantee ad free and appropriate public education for children with disabilities, IDEA will only fulfill its intended purpose if it raises its expectation for students and becomes results-oriented, not driven by process, litigation, regulations, and confrontation. In short, the system must be judged by the outcomes and the opportunities that it gives to each child.

Recommendation number two: embrace a model of prevention, not a model of failure. The current model guiding special education focusses on failure, not prevention. Reforms must move the system toward early identification and swift intervention, using scientifically based instruction and methods. This will require changes in the nation’s elementary and secondary schools, as well as reforms in teacher preparation and recruitment and professional development.

And I want to just give an example of what we have done in Iowa because I think we are the only State that has done this. We have eliminated the IQ discrepancy test as a determination of eligibility. What that has been is a system where kids have to fail that test before they are eligible for special education. We did that about five years ago and it has worked well. This report recommends that be eliminated throughout the country. Put the focus on really the kids’ needs.

The third recommendation is consider children with disabilities as general education children first. Special education and general education are treated as separate systems but, in fact, share responsibility for children with disabilities. In instruction, the systems must work together to provide effective teaching and ensure that those with additional needs benefit from the same strong teaching and instructional methods being offered to every child through general education.

Funding arrangements should not create an incentive for special education identification or to become a tempting scheme for isolating children with learning or behavioral problems. Each special

need must be met using the school's comprehensive resources, not relegating students to a separate funding program. Flexibility in the use of all educational funds, including those provided through IDEA, is essential to meet the needs of every child.

I am out of time so thank you very much.

[The prepared statement of Mr. Branstad follows:]

PREPARED STATEMENT OF TERRY E. BRANSTAD

Good morning. Thank you Chairman Kennedy for that introduction. I thank the Chairman, Senator Gregg, and all members of this Committee for the opportunity to testify before your Committee today.

I am pleased to report to you that the President's Commission on Excellence in Special Education has finished its work. The Commission met its July 1 deadline for transmitting its report to President Bush. This morning I will outline to you the Commission's major findings and recommendations.

On Oct. 2, 2001, President Bush ordered the creation of the Commission. In his Executive Order, he made the following statement.

"The education of all children, regardless of background or disability, while chiefly a State and local responsibility, must always be a national priority. One of the most important goals of my Administration is to support states and local communities in creating and maintaining a system of public education where no child is left behind. Unfortunately, among those at greatest risk of being left behind are children with disabilities."

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The 24-member Commission held 13 open hearings and meetings across the country. At those meetings and hearings we heard from 109 expert witnesses and more than 175 parents, teachers, students with disabilities, and members of the public. Hundreds of other individuals provided the Commission with letters, written statements, and research.

THREE BROAD RECOMMENDATIONS FORM THE FOUNDATION OF THIS REPORT.

*Major Recommendation 1: Focus on results-not on process.*

IDEA must return to its educational mission: serving the needs of every child. While the law must retain the legal and procedural safeguards necessary to guarantee a free and appropriate public education to children with disabilities, IDEA will only fulfill its intended purpose if it raises its expectations for students and becomes results-oriented-not driven by process, litigation, regulations, and confrontation. In short, the system must be judged by the outcomes and opportunities it gives each child.

*Major Recommendation 2: Embrace a model of prevention not a model of failure.*

The current model guiding special education focuses on failure, not on prevention. Reforms must move the system toward early identification and swift intervention, using scientifically based instruction and methods. This will require changes in the nation's elementary and secondary schools as well as reforms in teacher preparation, and recruitment, and professional development.

*Major Recommendation 3: Consider children with disabilities as general education children first.*

Special education and general education are treated as separate systems, but in fact share responsibility for the child with disabilities. In instruction, the systems must work together to provide effective teaching and ensure that those with additional needs benefit from the same strong teaching and instructional methods being offered to every child through general education. Funding arrangements should not create an incentive for special-education identification or become a tempting scheme for isolating children with learning and behavior problems. Each special need must be met using a school's comprehensive resources, not by relegating students to a separately funded program. Flexibility in the use of all educational funds, including those provided through IDEA, is essential.

In closing, I want to briefly revisit the remarks President Ford made upon the signing of the Education for All Handicapped Children Act of 1975. He made the following statement:

“It contains a vast array of detailed, complex, and costly administrative requirements which would unnecessarily assert federal control over traditional State and local government functions. It establishes complex requirements under which tax dollars would be used to support administrative paperwork and not educational programs.”

More than a quarter century later, we know that IDEA has sadly met the expectations that President Ford set forth in 1975. At the same time, this Commission is optimistic our Nation can revitalize special education for children and their families. However, we will do so only through a focus on educational achievement, teacher quality, and rigorous research. Only then can the promise of no child left behind truly be fulfilled.

Thank you. I will be happy to take your questions.

The CHAIRMAN. We will ask our guests to summarize but I would ask the staff to turn this off. This is an important matter and we will hear from all of them.

Please, Commissioner.

**STATEMENT OF COMMISSIONER DOUGLAS H. GILL, CHAIR, FINANCE TASK FORCE, PRESIDENT'S COMMISSION ON EXCELLENCE IN SPECIAL EDUCATION, WASHINGTON, DC**

Mr. GILL. Good afternoon, Mr. Chair, members of the committee, and a special hello to Senator Murray, who used to sit on our Special Ed Advisory Council in the State of Washington.

My name is Dr. Douglas H. Gill and I am the State director of Special Education in the State of Washington. I was appointed to the President's Commission on Excellence in Special Education in October 2001. Upon my appointment I was also asked to chair the Finance Task Force component of the commission. Although our special task force hearing and public input session was held in Los Angeles on March 21, 2002, I can assure the committee that the topic of special education finance generated much discussion over the relatively short time line associated with the commission. I believe special education finance, or at least some implications for special education finance, occurred in every meeting and task force hearing held by the commission.

The Special Education Finance Task Force recommendations to the president are based on five fundamental principles. These five principles were the result of distilling the often-overwhelming volume of information we received and consequently served as filters for the finance recommendations included in the commission's report.

The first fundamental principle of the Finance Task Force recommendations is that special education is a shared responsibility that should be proportionately shared by the community, the school district, State and Federal Government. However, crucial to sharing the fiscal responsibility for special education is a reliable calculation of what constitutes excess cost. Excess cost is a proportional share of the total cost for special education which can only be determined by a full and thorough accounting for all available revenues against all legitimate expenditures.

The second fundamental principle is that students eligible for special education and related services are first and foremost, students in general education. As such, a student's basic right to special education does not in any way dilute, displace or diminish their basic right to general education revenues at the State and local level. The commitment of equivalent shares of State and local

general education funding, as well as any local enhancements, should be adequately accounted for in the commitment of supplemental State, local and Federal funding associated with the provision of special education to eligible students.

The third fundamental principle associated with the task force recommendations is that cost accountability is integral to program accountability. Reimbursement for past practice will simply reinforce past performance. Compensation for what most people would agree has been historical underfunding of special education is necessary but only represents a single step in a series of financial steps that need to be taken to ensure that indeed no child is left behind.

The fourth fundamental principle is that financial constraints imposed by the Federal Government in the establishment of special education nearly 30 years ago may now serve to restrict the implementation of the program in an era of educational reform and increased accountability for results. If we expect more in terms of accountability for results, we should allow more in terms of the financial flexibility necessary to achieve those results.

The fifth fundamental principle of the Finance Task Force recommendations is that there are growing percentages of children with complex medical, educational and service delivery needs who are not evenly distributed in the population. Enrollments of these children in local school districts, especially those in districts that are in rural and remote settings, present a significant disproportional financial impact for the district. The disproportional financial impact of such students should be recognized and compensated in such a way that it does not adversely compromise the local district budget or force local communities to choose between providing services to some at the expense of others.

Over the past 30 years our nation has been witness to many medical, educational and social changes yet the delivery of special education services at the Federal level through IDEA has remained in a virtual vacuum. We have been so vested in maintaining that we forgot to grow and mature as a discipline. Procedural compliance has become an inconsistent and unevenly applied surrogate for accountability. Increased litigation, both founded and unfounded, threatens to dismantle the system that many of us have fought to create and leave both winners and losers bitter from the conflict.

While financial recommendations cannot singularly save the system, significant conceptual revisions aimed at the improvement of special education finance can and will have a positive impact on establishing and maintaining excellence in special education. When taken in aggregate, the financial recommendations outlined in the commission's report should enable us to move the financial date in special education from one of underfunded mandates to one of reimbursement for results. The development and implementation of these recommendations over time will also identify and require other fiscal adjustments that will periodically need to be made so that special education remains the vital and viable program it was intended to be.

[The prepared statement of Mr. Gill follows:]

## PREPARED STATEMENT OF DOUGLAS H. GILL

## INTRODUCTION

Good afternoon Mr. Chair, and members of the committee. My name is Dr. Douglas H. Gill I am the State Director of Special Education in the State of Washington I was appointed to the President's Commission on Excellence in Special Education in October of 2001. Upon my appointment, I was also asked to Chair the Finance Task Force component of the Commission Although our specific task force hearing and public input session was held in Los Angeles on the 21st of March 2002, I can assure the Committee that the topic of special education finance generated much discussion over the relatively short timeline associated with the Commission. I believe special education finance, or at least some implications for special education finance, occurred in every meeting and task force hearing held by the Commission. In addition, the Commission as a whole, and myself in particular, have received many copies of various position papers, letters, expert testimony, public testimony, e-mail, phone calls and voice messages during the course of our appointment. Synthesizing the volume and variety of input was clearly a formidable task. Thank you very much for the opportunity to share my thoughts, and the thoughts of many others with you today.

The special education finance task force recommendations to the President are based on five fundamental principles. These five principles were the result of distilling the often-overwhelming volume of information we received, and served as filters for the finance recommendations included in the Commission's report.

The first fundamental principle of the finance task force recommendations is that special education is a shared responsibility that cannot and should not be bourn solely by the family, community, school district, State or Federal Government. However, critical to sharing the fiscal responsibility for special education is a reliable calculation of what constitutes "excess cost." Excess cost is a proportional share of the total cost for special education, which can only be determined by a full and thorough accounting for all available revenues against all legitimate expenditures.

The second fundamental principle is that students eligible for special education and related services are first and foremost, students in general education As such, a student's basic right to special education does not, in any way, dilute, displace or diminish their basic right to general education revenues at the State and local level. The commitment of equivalent shares of State and local general education funding, as well as any local enhancements, should be adequately accounted for in the commitment of supplemental state, local and Federal funding associated with the provision of special education services to eligible students.

The third fundamental principle associated with the task force recommendations is that cost accountability is integral to program accountability. Reimbursement for past practice will simply reinforce past performance. Compensation for what most people would agree has been historical under funding of special education is necessary, but only represents a single step in a series of financial steps that need to be taken to ensure that indeed, no child is left behind.

The fourth fundamental principle is that financial constraints imposed by the Federal Government in the establishment of special education nearly 30 years ago, may now serve to restrict the implementation of the program in an era of educational reform and increased accountability for results. If we expect more in terms of accountability for results, we should allow more in terms of the financial flexibility necessary to achieve those results.

The fifth fundamental principle of the finance task force recommendations is that there are growing percentages of children with complex medical, educational and service delivery needs who are not evenly distributed in the population. Enrollments of these children in local school districts, especially those in districts that are in rural and remote settings, present a significant disproportional financial impact for the district. The disproportional financial impact of such students should be recognized and compensated in such a way that it does not adversely compromise a local district budget, or force local communities to choose between providing services to some at the expense of others.

These five fundamental principles guided the discussions and deliberations of our task force, and resulted in the final recommendations for special education finance that were proposed and ratified by the Commission on May 31, 2002. Hopefully, the recommendations will serve to stimulate some of the thinking surrounding the ongoing quest for excellence in special education, and more importantly, the overall provision of special education and related services to more than 6.5 million school age children sometimes struggling, but always striving to succeed in our nation's schools.

## DISCUSSION OF RECOMMENDATIONS

There are six specific finance recommendations for special education included in the report. The recommendations could be viewed independently, but if so, would only represent temporary improvements to the current system of special education funding and finance. The recommendations are not intended as single steps. They are intended as a comprehensive set of investment strategies, that when taken together, result in meaningful financial reform. Coupled with meaningful program reform, financial reform can guide improved delivery of services to students well into the next decade without compromising the basic provisions of Public Law 94-142 and the subsequent revisions to the law over the past 30 years.

The first specific recommendation of the Commission in the context of finance involves a two-step approach. Almost everyone who provided input to the Commission expressed a need for increased Federal funding in IDEA. However, most people also agreed that increased funding should be conditional. That is, conditional upon their perception that the Federal Government has reneged on their commitment of 40 percent of excess costs in 1975, and therefore they are entitled to more, conditional upon improved academic and post school results for students, and therefore they deserve more, or conditional upon the fact that simply because states and districts report spending more, they should get more. The finance task force concluded that the fiscal reality of special education is probably somewhere in the midst of those positions and therefore recommended that (a) Federal discretionary funding for special education should continue to increase, and (b) IDEA should establish a definable threshold of "excess cost" funding based on current research regarding total cost, before artificially inflating the cost of special and general education with an additional infusion of new money. Unconditional infusion of new money into the special education system without any definable parameters will: (1) institutionalize current practice, (2) influence growth rates in special education, and (3) encourage states and districts to serve children with marginal needs through special education rather than general education programs and classrooms.

The second recommendation in the finance portion of the Commission's report is that future funding increases beyond the definable threshold in the first recommendation, be linked to improved accountability for results. Implementation of this recommendation would unify special education with other recently re-authorized Federal education legislation, and more importantly, enable parents and families of children with disabilities to have more confidence in the academic and post school progress of their children toward definitive standards of success.

The next two recommendations involve changes in the use of federal IDEA funds available to states and local districts. The third recommendation is that Part B funds be targeted to direct services. This includes directing 90 percent of available Part B funds to local districts: The remaining 10 percent of Part B funds should be set-aside at the State level consistent with a set of national priorities and other important considerations necessary to achieve increased measures of excellence in special education. It is important to note that the percentage expressions in the use of IDEA Part B funds be expressions of the total grant amount, and not be tied to the 1997 base plus inflation. The 1997 base plus inflation calculations are cumbersome and do not add any value to the distribution of funds that could not be accomplished within a generic percentage allocation.

In addition to changes in the use of funds component of Part B, the Commission also recommends that funding for Part C and Section 619 of IDEA be proportionately increased in a concerted effort to consolidate and target early intervention efforts between the ages of birth and 6. Current research in a number of arenas underscores the effectiveness of early intervention efforts. These efforts should be acknowledged and reinforced in IDEA regardless of whether or not a state educational agency or a social services agency has been designated as the lead agency in a given state. A seamless system of early intervention is critical in the achievement of meaningful results.

During Commission hearings, both invited and public witnesses reaffirmed many of the perceptions associated with escalating expenditures in special education: the greatest concerns about cost for local districts are derived from complex or high need children requiring expensive placements both within and outside the district. Critical shortages of qualified staff exacerbate this dilemma. Presently, there are very limited provisions under IDEA that would provide State educational agencies with targeted resources to offset the fiscal impact on local districts of providing a free, appropriate public education to high need children with disabilities who are not evenly distributed in the population. States and local districts may often choose not to expend their entire allocation of federal funds in a given year for fear that unanticipated expenditures may suddenly arise and implode an already tight budget.

with no legitimate avenue for relief. Therefore, the final two recommendations of the Commission regarding special education finance involve the creation of models that allow local districts to proactively prepare for incurring unanticipated fiscal obligations associated with the provision of special education, and funding the costs of exceptionally high need children.

First, IDEA should allow local districts to retain a portion of their unspent Federal funds, and earmark a fixed percent of Part B flow-through funds at a local or regional level for the purpose of creating risk management pools. Second, IDEA should formalize the opportunity to develop a safety net process for high need children either as a "first dollar" obligation for states within existing Part B allocations, or as a required use of State level discretionary funding. The combination of risk management pools and safety net processes could have a profound impact on the world of special education finance. The opportunity to develop and implement risk management pools, and develop and implement safety nets for complex needs children, will allow special education to finally get ahead of the financial curve, and focus their efforts on providing services based on need, not negotiating services based on cost.

Inherent in the discussions of altering the finance structure in special education is the need for valid and reliable research surrounding the impact of the changes that are made. It is crucial that the Federal government initiate strenuous research that can clearly explain the complex and often confusing relationship between program and budget. Perhaps the most critical of these research questions involve the determination of the costs and necessary resources for student achievement of identifiable outcomes, and the impact of fiscal reforms in special education on the general education program and budget.

#### SUMMARY

Over the past 30 years our Nation has been witness to many medical, educational and social changes. Yet, the delivery of special education services at the Federal level through IDEA has remained in a virtual vacuum. We have been so vested in maintaining that we forgot to grow and mature as a discipline. Procedural compliance has become an inconsistent and unevenly applied surrogate for accountability. Increased litigation, both founded and unfounded, threaten to dismantle the system of services many of us have fought to create, and leave both "winners" and "losers" bitter from the conflict. While financial recommendations cannot singularly save the system, significant conceptual revisions aimed at the improvement of special education finance can and will have a positive impact on establishing and maintaining excellence in special education. When taken in aggregate, the financial recommendations outlined in the Commission's report should enable us to move the financial debate in special education from one of under funded mandates to one of reimbursement for results. The development and implementation of the recommendations over time will also identify and require other fiscal adjustments that will periodically need to be made so that special education remains the vital and viable program it was intended to be.

The CHAIRMAN. Commissioner Huntt.

#### **STATEMENT OF COMMISSIONER DOUGLAS C. HUNTT, CHAIR, TRANSITION TASK FORCE, PRESIDENT'S COMMISSION ON EXCELLENCE IN SPECIAL EDUCATION, WASHINGTON, DC**

Mr. HUNTT. Thank you, Mr. Chairman, distinguished members of the committee. Thank you for the opportunity to appear before you today. I am honored to present these recommendations to a committee and chairman who continually advance the public policy cause of Americans with disabilities. Thank you, Mr. Chairman, for all that you have done on behalf of people with disabilities.

I also want to thank Senator DeWine for your very kind introduction. I have the opportunity, being a Buckeye, to see all that you do on behalf of people with disabilities in Ohio and across the country and I thank you for that.

It is my hope that we look back at this reauthorization of IDEA as a defining moment for increasing outcomes that include higher

graduation rates and competitive employment for people with disabilities.

I did not initially choose to become involved with the disability community. During my enlistment in the U.S. Marines I received a head injury that left me with a seizure disorder. My life was literally turned upside down. Although it was a time of turmoil, as I look back I am thankful that I did not have to deal with disability through the public education system. I know that I would not be before you today had that been the case. The stigma, lack of expectations, outcomes, and insufficient educational opportunities would have left me unable to attend college and work in the field that I have chosen.

Because of IDEA, we have made significant strides in providing a public education accessible to people with disabilities. However, the door to successful educational outcomes and transition to competitive employment has remained inaccessible and tightly closed. There is an obvious high correlation between low graduation rates and high unemployment among people with disabilities. I believe that transition services provide the nexus between the two. As you know, Mr. Chairman, transition planning and services promote an outcome-oriented set of services to facilitate a child's movement from school to post-school activities, including post-secondary education and vocational training.

The committee's first recommendation is to simplify Federal transition requirements in IDEA. School personnel must be provided clear and concise rules and regulations outlining how to provide effective and relevant transition services to students with disabilities seeking to enter the workforce immediately following high school, as well as planning for college. The IDEA's current requirements are too complex and do not adequately meet this need. These provisions should provide clearer steps for integrating school and nonschool transition services and closely link transition services to goals in each student's individualized education plan.

While some may argue that transition is already part of the IEP, our reading of the transition language in the Federal regulations leave us confused about what is required, when it is required, and who must be involved. Teachers, parents and students should not have to waste time interpreting terms and concepts.

Second, the commission found that the overriding barrier to effective transition is the fundamental failure of Federal policies and programs to mandate interagency collaboration and funding. Multiple Federal agencies, policies and programs must be required to work together to improve competitive employment outcomes and increase access to higher education for students with disabilities.

The funding for more focussed transition services now exists. Unfortunately, these funds are spread across multiple agencies. The question of who pays is the overriding barrier to transition services at the IEP level. States must be allowed to coordinate Federal funds from the various agencies into specific transition services that best serve each State's students with disabilities.

Lastly, an executive order mandating existing agency coordination and pooling of existing funds will improve transition services.

Given the correlation between vocational rehabilitation and special education, the commission's third recommendation for transi-



tion is the creation of a Rehabilitation Act Reauthorization Advisory Committee. The Secretary of Education should create an advisory committee modeled after the President's Commission on Excellence in Special Education, to examine reauthorization of the Rehab Act.

Mr. Chairman, in conclusion, I believe the standard is clear. Special education is a failure if we do not prepare our children with disabilities to live independently in adult life. It is not only special education that fails but also we as a nation when children with disabilities leave public education for a life of dependency and poverty, imprisoned by the lack of necessary skills to live freely as an adult. Mandated interagency transition services will bring a wealth of resources to ensure that no child will be left behind.

Thank you again, Mr. Chairman, for your work and the work of the Health, Education, Labor and Pensions Committee on behalf of people with disabilities.

[The prepared statement of Mr. Hunt follows:]

#### PREPARED STATEMENT OF DOUGLAS C. HUNT

Mr. Chairman and Distinguished Members of the Committee:

Thank you for the opportunity to appear before you today to discuss the recommendations from the President's Commission on Excellence in Special Education's Transition from School to Work Task Force. I am honored to present these recommendations to a committee and chairman who continually advanced the public policy cause of Americans with disabilities. Thank you, Mr. Chairman, for all that you have done and continue to do on behalf of people with disabilities.

I also want to thank President Bush for the opportunity to serve on this Commission and for his un-relenting and productive New Freedom Initiative and No Child Left Behind vision for Americans with disabilities. It is my hope that we will look back at this re-authorization of IDEA as a defining moment for increasing outcomes that include higher graduation rates and competitive employment for people with disabilities.

I did not choose to become involved with the disability community. During my enlistment in the US Marines, I received a head injury that left me with a seizure disorder. My life was literally turned upside down. Although it was a time of turmoil, as I look back, I thank God that I did not have to deal with disability through the public education system. I know that I would not be before you today had that been the case. The stigma, lack of expectations, outcomes, and insufficient educational opportunities would have left me unable to attend college and work in the field that I have chosen.

I am privileged to appear before you today to discuss specific recommendations made by the President's Commission on Excellence in Special Education's Transition from School to Work Task Force. Because of IDEA, we have made significant strides in providing a public education system accessible to people with disabilities; however the door to successful educational outcomes and transition to competitive employment has remained inaccessible and tightly closed. We must not ignore the fact that the drop out rate among children with disabilities is twice that of children without disabilities and that over 70 percent of adults with disabilities are unemployed. We must not ignore the fact that people with disabilities remain the poorest of the poor, leaving public education unprepared for a life of unemployment and/or underemployment, limited to work in the food and filth industry or collecting monthly social security checks. There is an obvious high correlation between low graduation rates and unemployment among people with disabilities. I believe that transition services provide the nexus between the two.

#### TRANSITION SERVICES

As you know, Mr. Chairman, transition planning and services promote an outcome-oriented set of services to facilitate a child's movement from school to post-school activities, including postsecondary education and vocational training.

The Committee's first recommendation is to simplify Federal transition requirements in IDEA. School personnel must be provided clear and concise rules and regulations outlining how to provide effective and relevant transition services to students with disabilities seeking to enter the workforce immediately following high

school as well as planning for college. The IDEA's current requirements are too complex and do not adequately meet this need. These provisions should provide clear steps for integrating school and non-school transition services, and closely link transition services to goals in each student's individualized education plan. While some may argue that transition is already part of the IEP, our reading of the transition language in the Federal regulations leave us confused about what is required, when it is required, and who must be involved. Teachers, parents, and students should not have to waste time interpreting terms and concepts.

Secondly, the Commission found that the overriding barrier to effective transition is the fundamental failure of Federal policies and programs to mandate inter-agency collaboration and funding. Multiple Federal agencies, policies, and programs must be required to work together to improve competitive employment outcomes and increase access to higher education for students with disabilities. The funding for more focused transition services now exists. Unfortunately, these funds are spread across multiple agencies. The question of "who pays" is the overriding barrier to transition services at the IEP level. States must be allowed to coordinate Federal funds from the various agencies into specific transition services that best serve each state's students with disabilities. For example, The Social Security Reimbursement Program should allow for reimbursement to State vocational rehabilitation agencies for transition workers in the school. Lastly, an Executive Order mandating existing agency coordination and pooling of existing funds will improve transition services. Further, the bridge between Federal special education policy and rehabilitation policy must be strengthened.

Given the correlation between vocational rehabilitation and special education, the Commission's third recommendation for transition is the creation of a Rehabilitation Act Reauthorization Advisory Committee. The Secretary of Education should create and advisory committee, modeled after the President's Commission of Excellence in Special Education, to examine the reauthorization of the Rehabilitation Act.

Finally, the Commission's Task Force on Transition recommends that higher education faculty, administrators, and auxiliary service providers receive support to effectively provide and assist students with disabilities to complete a quality post-secondary education. Federal policies should support and hold accountable all post-secondary institutions receiving Federal funding for using evidence-based, best practice programs.

#### CONCLUSION

In conclusion, I believe the standard is clear: special education is a failure if we do not prepare our children with disabilities to live independently in adult life. -It is not only special education that fails but also we as a Nation when children with disabilities leave public education for a life of dependency and poverty, imprisoned by the lack of necessary skills to live freely as an adult. Mandated inter-agency transition services will bring a wealth of resources to ensure that no child will be left behind.

Thank you again, Mr. Chairman, for your work, and the work of the Health, Education, Labor, and Pensions Committee on behalf of America's 54 million people with disabilities.

The CHAIRMAN. Thank you very much and we will have six minutes for the members to inquire of the commissioners.

First, Governor, I would like to ask you about how we are going to get the high quality teacher, educator, for the special needs children. This is a key element in the No Child Left Behind, trying to get a well qualified teacher in every classroom in the country, and we have had a number of ways that we have tried to, both in terms of recruitment and professional training.

Could you elaborate a little bit about what you think we could learn from the commission that might be of value to us as we look at this?

Mr. BRANSTAD. Chairman Kennedy, I would also point out the report is now on line at the Department of Education website and there are many ideas and recommendations in here that I think will help us both recruit, train, and retain quality teachers.

One of the problems we heard from teachers was paperwork and the excess of paperwork and the recommendations that we are

making in that area we think can help. We have heard that, for instance, the average special ed teacher is spending five hours a week on paperwork that could better be spent on working with kids.

There needs to be a better job done in training general ed, as well as special ed teachers, about the needs of kids and this, I guess, would also go not just to teachers but to principals and administrators, as well, to understand the needs of children with disabilities, kids with emotional disturbances, and things like that, and how that can be effectively worked with.

There are many good recommendations. We had some outstanding researchers on the commission and we heard from some outstanding researchers with ideas on how we can improve the preparation and retention of teachers but there is a tremendous turnover. There is a big shortage, as you know, of special ed teachers, and one of the reasons for it is because of the paperwork and the demands and we just have a high burn-out rate in this area and we are losing too many good teachers.

The CHAIRMAN. Well, it is about twice as high as it is for regular teachers and that is too high. So we will look forward to looking through those recommendations.

Commissioner Gill, I wanted to ask you about the reading. The commission felt very strongly about the need to increase reading skills of those children who might otherwise be incorrectly identified as needing special education. Could you elaborate a little bit about what the commission recommended doing to increase the reading skills of children in special education?

Let us take, for example, children that are mentally retarded. How do you see this recommendation actually impacting and affecting those children?

Mr. GILL. Well, I do not know necessarily that the reading initiative, for example, would have a huge and significant impact on every child but I think there is certainly a significant number of children in special education who may, in fact, have benefitted from instructional interventions prior to their eligibility determination for special education, and I think that is the group that this is primarily targeted at.

Obviously reading is an essential skill for everyone but I think the concern that I heard expressed as a commission is that there are significant numbers of kids who we might describe as curriculum casualties in the context of educational reform and increased accountability and high stakes testing, et cetera, that might be better served through general education classrooms and through reading support programs, as opposed to eligibility determination and entry into special education.

The CHAIRMAN. What was your sense about the receptiveness about the increasing focus on reading generally? We have important provisions obviously in the No Child Left Behind. We have some interventions, a very limited but important program in terms of preschool children. What can you tell us as a result of the hearing that you had about reading generally and the kind of recommendations that you have with regard to special needs children?

Mr. GILL. I think that the hearings we had and the information that we processed in this regard said that there are clearly re-

search-based practices regarding reading improvement strategies for all kids that kids could certainly benefit from. And I think the issue that most of us were concerned about and quite a number of parents were concerned about in their public testimony is that sometimes kids in special education were not given the benefit of those preintervention strategies before they were automatically put in a special education program or determined eligible. So they felt like, and I would tend to agree with them, that at least we ought to try as best we can research-based preinterventions prior to determination of special education.

The CHAIRMAN. Mr. Hunt, on the recommendations to give greater focus on the outcomes, on a culture of outcomes rather than a culture of compliance, this is obviously an important civil rights law as well as an education law. How did the commission balance between recognizing the protections which are necessary as a civil rights bill, as well as to try to deal with the education? What can you tell us about your conclusions?

Mr. HUNTT. I think that hits at the heart of what we were about, Mr. Chairman. Fundamentally there was no suggestion that we ever remove any civil rights whatsoever or any entitlement whatsoever, but the focus on outcomes really protects, I think, the child, ultimately his or her civil rights. We want to see that special ed works. If I had a child in special ed I would want that child to be able to succeed and to excel beyond the public education system.

So the focus on outcomes is a way to measure that special ed is really working and to be able to tell parents and that child yes, this system is working and this benefits you and it does fundamentally ensure your civil rights.

The CHAIRMAN. Senator Gregg.

#### OPENING STATEMENT OF SENATOR GREGG

Senator GREGG. Thank you, Mr. Chairman.

Again I want to congratulate the commission for your work. I think you have contributed significantly to our base for making a decision here on how we reauthorize this very, very important piece of legislation. It is a piece of legislation I have a personal interest in, having been for many years head of a very large special education institution called the Crotched Mountain Rehabilitation Center in New Hampshire.

So I find your emphasis on education to be excellent and your emphasis on outcomes to be excellent. I think that is exactly the right tone to set and hopefully we can accomplish that in the reauthorization.

The issue—there are a lot of issues. There are so many issues it is hard to know where to start but one of the issues that I have always found difficult was alluded to, I think, by Mr. Gill, which is when the small towns have a child who is very involved and that child has to go outside the local school system or even stay inside the local school system if he or she can be mainstreamed, which is sometimes very difficult to do, the cost really is astronomical.

Under present law you cannot pool—there is no risk pooling allowed with the Federal dollars but some States are doing risk pooling with their local dollars and I am wondering if you think we should create some language here which gives some flexibility to

the funds coming back, as long as we maintain the integrity of those funds and we do not allow them to be skimmed off for administration, that would allow the Federal funds to create risk pools for communities that get hit with a child who has real serious involvement and high costs?

Mr. GILL. Actually, those are two of the recommendations of the commission and I think two of the recommendations that speak to the notion of financial flexibility. I think we have to create scenarios in local districts and States where we can actually get ahead of the financial curve in special education, as opposed to always looking at a reimbursement model for past practice or whatever. And I think risk management pools create an opportunity to do that, as well as safety net pools, if you will, for extraordinarily high cost students that, in fact, have the outcome, if you will, of almost devastating a local district budget that is already pretty tightly wound by the time the school starts.

So when you have unanticipated enrollment increases in a small district or even a large district, or you have an unanticipated student who shows up and requires a free and appropriate public education, sometimes local districts with very small revenue bases are not able to compensate for that without somehow reducing services to other kids somewhere in the system and I do believe the Federal Government has a role there and I believe they should exercise that role.

Senator GREGG. Good, and I hope we incorporate that.

Now present law has a 20 percent—once we hit the \$4 billion, you allow the local districts to use 20 percent of the money that is coming back to them for activities which they determine they need to use it for with total flexibility essentially.

I notice your report did not comment on that 20 percent flexibility to the local communities. Did you have any input on that?

Mr. GILL. Well, we did not really discuss that specifically as far as the 20 percent use of Federal funds where they can use that against their maintenance requirements, et cetera. I think the general feeling was that did not result in enough money to have much of a significant impact on the local district of any size.

Senator GREGG. Well, it does free up some dollars, though.

Mr. GILL. Yes, it does.

Senator GREGG. One of the issues we have is what I call the infinity issue, which is that we have 40 percent that we have locked in, which is sort of like our college programs. Every time we increase our Pell grants or increase our student loans, we find all the colleges across the country increase their tuitions and we never catch up.

How do we get to the point where when we get to 40 percent, which hopefully we will in the near future, we just do not find that next year we are back down to 35 because there have been such an explosion in costs as a result of all this new money flowing in?

Mr. GILL. Well, I think that is clearly a concern that we as commissioners had. I do not think we had anyone who testified before us who even alluded to the fact that there should be a decrease in Federal funding. I think everybody was—that is one area upon which everybody agreed.

But I think—

Senator GREGG. I think everybody agrees on that.

Mr. GILL. But what they also agreed is that increased funding was conditional. I think some people felt like the increased funding was conditional upon their perception that the Federal Government reneged on their promise of 40 percent of excess cost in 1975 and therefore they are entitled to more, conditional upon improved academic and post-school results; therefore, they deserve more. Or contingent upon the fact that they spend more; therefore they should get more.

And I think it is the impact of all of those issues that if you go to a number, whatever it happens to be, 40 percent, without any parameters associated with that increase, I think you will get exactly what you have described. You will get an institutionalization of current practice, you will influence the growth rates in special education, and I think you will also encourage districts and States to serve kids with marginal needs through special education, rather than the general education programs and classrooms.

Mr. BRANSTAD. That is precisely what will happen.

Senator GREGG. So you are saying we should do the reform before we lock in the spending?

Mr. GILL. Well, I think those are things that have to be done in concert. I do not think you can do one without the other. That is why I think in my opening remarks I wanted to make the statement if I was not clear that fiscal accountability is integral to program accountability. I do not think you can separate those two issues. That is why I think we have, at least in our recommendations, linked those two things together in the first recommendation.

Senator GREGG. Thank you.

The CHAIRMAN. Senator Harkin.

#### OPENING STATEMENT OF SENATOR HARKIN

Senator HARKIN. Thank you very much, Mr. Chairman.

I thank all of you for your public service in this endeavor, for all the hearings you had and the input that you gained from across the country. It will help us a great deal in our moving ahead toward the reauthorization next year of IDEA.

I guess I have a couple of questions. First I want to say off the top that having worked for so long with parents and families with kids who are disabled and getting them into school and watching what they had to go through and everything, I do not think there would be one parent out there who would disagree that with the recommendation that special education students are general education students first and they must be looked upon that way, as part of our general education population out there.

Second, I do not think any parent would ever disagree with the recommendation that we should look at results and results-oriented. But therein lie some problems and I will get to that in a second.

First of all, I want to get to the financing of it. Last year Senator Hagel and I sponsored an amendment to fully fund IDEA. We basically passed it in the Senate and it had an overwhelming vote, I think 60 some votes if I am not mistaken in the Senate. But we went to conference and it was dropped because the House objected

and the administration objected. But the idea was to make it a mandatory funding.

Again for too long, and I talk about my own State of Iowa, Governor Branstad, for too long these local communities have assumed a disproportionate share of the cost. It has a terrible impact on property taxes and property taxes are in many cases unfair taxes. They are not proportionate to a person's income. Especially if you have an elderly population, they may have older homes and they may pay more in property taxes but their income may not be very high. Then what happens is that that creates divisions in the communities and that has a negative impact on families of kids with disabilities who have to then fight in their local jurisdictions to get the funding necessary for their kids. So it creates a lot of friction out there.

So we looked at the commitment that was supposed to have been there by the Federal Government to provide up to 40 percent of the average per pupil expenditure, so we propose that we make it mandatory, that we put it on the mandatory budget side. We got support for this from governors. I think—well, the National Governors Association supported it. I cannot say that every governor supported it but the National Governors Association, both Republican and Democrat, supported making it mandatory. We had support from the National Association of State Legislatures to make it mandatory. We had support from the National Association of School Boards to make it mandatory, and most education associations and families with kids. We had a broad spectrum of support to make it mandatory.

So I guess I need to understand why this commission, what its rationale is, that we should not make it mandatory but should leave it discretionary.

Mr. BRANSTAD. Senator, I think the main reason why the commission did not recommend mandatory funding is we think this is a very important priority and we made a lot of recommendations that will require additional funding and addressing some of the concerns you expressed, like school school districts that have a child with a significant medical and special ed need and that can really cause real problems in that school district's budget, and we have, I think, specific solutions for those things.

But on the issue of just mandatory funding, and I guess this comes from my experience of 16 years as governor, I remember when we had the State budget on auto pilot and basically we had more mandatory funding than we had funds available and we had to unravel that situation. Sometimes there is a situation where there is a need to set priorities and when you have a growing share of your budget on auto pilot mandatory funding, you do not have the flexibility to be able to do that.

So we thought there were important issues to address. We did not—the commission did not feel that it is something we should advocate mandatory funding for. We thought we would be in a better position to make specific recommendations on trying to address some of the areas where IDEA could be improved.

Senator HARKIN. I appreciate that, Governor, but again here we get into that battle all the time, too. I mean how much goes for this part of education, how much goes to that part of education, and we

struggle every year to try to get this up to the 40 percent level and we have not succeeded in doing so yet.

Mr. BRANSTAD. Well, you have made significant progress in recent years compared to what it was like before that.

Senator HARKIN. Yes, we are up to about 20 percent now. We are about halfway there. At this present rate we will get to 40 percent, I think, sometime in the next 12 years, which for many people with kids with disabilities, is too long to wait.

Mr. BRANSTAD. And it could even be longer than that because of the costs to get the 40 percent keep going up, too. So you are right.

Senator HARKIN. What was the input that you received as you went around the country from other governors or State legislatures? Did you have input on this at all, on the mandatory versus discretionary? And what was the bulk of the testimony you received?

Mr. GILL. Senator, the bulk of the testimony we received regarding the discretionary versus mandatory nature of special education was certainly a concern that I recall from testimony that if we look at the increased growth rate of special education, it correlates pretty well with the increased rate of funding for special education. So lots of people were concerned, and I think rightfully so, that as you again increase funding in special education without any kind of parameters, what you actually do is inflate the number of kids in special education.

So the issue becomes are you reimbursing for what you should have done before or are you creating some sort of unintended consequence in what you are reimbursing for now, and I think that the decision and the discussion of the task force was to leave it as discretionary and let you folks determine whether you think it should be mandatory or not.

Senator HARKIN. Here again we have a chicken-and-egg discussion.

Mr. GILL. That is true.

Senator HARKIN. It is chicken and egg. We say to people they need to hire special assistants for kids that are in public school that have disabilities. They need a special aide there. The poor teacher cannot cope with that. They are not trained to do it. And the school district says but we do not have the money. So they do not hire and we say to them do that and then we will provide the funding. That is chicken and egg.

I mean if we provide the mandatory funding, then they are going to have the wherewithal to hire those special assistants to give the teachers the assistance they need in the classroom but if we do not provide the mandatory funding every year they do not know what the next year is going to be like.

Mr. BRANSTAD. I think there is also, and we talk about this in the report, a difference between high incidence disability and low incidence disabilities. The high incidence disabilities are not affected by the funding that Doug was talking about, whereas the low incidence disabilities, which would be more specific learning disabilities and whatever, when the funding goes up, the enrollment and participation in that tends to go up.

So we talk about addressing that. I guess it is not a simple issue. It is one where we are basically saying the high incidence one, we



think there needs to be essentially—I do not know if mandatory funding is the right term but there ought to be the Federal Government assuring that the funding is there so that local school districts do not get hit with a cost that they did not anticipate, but that in the area of the lower incidence, that just providing more money may not solve the problem because it may just drive up the participation in that and we need to be more specifically working on that to meet the needs of the individual student.

Senator HARKIN. But just one question, Governor Branstad. What recommendations did the commission make regarding schools accessing Medicaid funds? There we run into problems. I know in Iowa we run into problems all the time with schools participating in health services under the Medicaid program. That has to do with certain—different States have different laws on accessibility to those Medicaid funds.

Mr. BRANSTAD. Honestly, Senator, I do not think we addressed—we addressed a lot of issues. I do not think that that specific area of the interaction between—and maybe there is one—

Mr. GILL. Could I respond to that?

Senator HARKIN. Sure.

Mr. GILL. I think that is a very good question. I think one of the things that we did not put in because we did not really get beyond IDEA but I think that it is possible that Medicaid reimbursement dollars could, in fact, be a seed source for individual high-cost students or a possibility of a way in which to increase fiscal flexibility. We did not really feel comfortable getting into the Medicaid discussion at that point in time but I agree with you that certainly reimbursement for high-cost students who are Medicaid-eligible is, in fact, a funds source that could be used to offset the cost of complex needs kids, as well.

Mr. BRANSTAD. We did recommend improved coordination. There needs to be improved coordination in that area. We did not probably have the time to get into it. That in and of itself is a very complicated issue that could take a lot of time but there is clearly a need for additional improved coordination there so that Medicaid funds are available to meet the needs of those kids that are eligible.

The CHAIRMAN. Just on this issue, would it be too much to ask your people at the commission to try to take a look at this? Because this really is an enormous problem and the communities have to go through extraordinary lengths to get these kinds of reimbursements and its put an incredible burden on all of them. We hear from so many. You have 40 or 60 percent who are Medicaid-eligible and it would be very helpful if you could—you have a lot of very good people and we would ask you to give us some guidance on this because this is a very, very important issue.

Maybe we could see if you would be good enough to do so, Governor. We would ask the commission if you could give us at least some ideas.

Mr. BRANSTAD. On the coordination of Medicaid benefits.

The CHAIRMAN. Yes, because you obviously listen to a lot and if you could give us just some general guidelines, as specific as you can but we will take anything you have.

Senator DeWine.

Senator DEWINE. Senator Roberts.

The CHAIRMAN. Senator Roberts.

Senator ROBERTS. Mr. Chairman, I have a short statement I would like to insert in the record as a general statement, typically referring to your leadership and thanking the commissioners, thanking the president for the focus on the report. I would like to make it for the record if I might.

The CHAIRMAN. It will be so included.

Senator ROBERTS. I thought maybe "without objection" would be appropriate.

Senator DEWINE. He wants to read it first.

The CHAIRMAN. I will have to check it out over here.

Senator ROBERTS. I mentioned the name of Senator Kennedy 18 times here. I thought maybe—

The CHAIRMAN. It will be included in the record.

[The prepared statement of Senator Roberts follows:]

#### PREPARED STATEMENT OF SENATOR ROBERTS

Mr. Chairman, Senator Gregg, thank you for holding this hearing to review the results of the report compiled by the President's Commission on Excellence in Special Education. I would first like to thank all of the members of the commission for their hard work and dedication to the field of special education. Second, I would like to sincerely welcome the members of the commission who are here to testify today, Commissioners Terry Branstad, Douglas Gill and Douglas Hunt. Your time and effort is greatly appreciated.

The Individuals with Disabilities in Education Act is most certainly responsible for many of the significant gains and achievements made in recent years by children with disabilities. With the passage of this landmark legislation, children with disabilities are guaranteed equal education as their peers. IDEA has made it possible for all children to achieve academic success and transition into life after school.

However, while IDEA has produced incredible results, some areas are in need of significant reform. First of all, federal funding for IDEA must be increased. With over 6 million students served under IDEA, schools are qualified to receive over \$17 billion in federal funding in Part B. Unfortunately, in fiscal year 2001, schools received only \$6.34 billion, far short of the 40 percent full funding we promised to schools almost three decades ago. While we did increase funding for fiscal year 2002 to approximately \$7.5 billion, it is still not enough.

I am also concerned about the large amount of paperwork that is producing a major burden for teachers and schools. I cannot count on my hands the number of teachers, parents, and administrators who are discouraged by the amount of unnecessary paperwork that takes away from time spent with students. Many feel bogged down and request that paperwork be focused on the development and success of the child and not merely on compliance. I look forward to hearing the panelists' ideas for paperwork reduction, funding for IDEA, and other areas, such as teacher preparation and recruitment.

In October of last year, I am pleased that President Bush made his commitment to special education public by establishing the President's Commission on Excellence in Special Education. After 9 months, 13 public meetings, and hundreds of letters and written comments, the Commission compiled and produced "A New Era: Revitalizing Special Education for Children and Their Families."

This report shares with all of us recommendations for necessary changes and improvements to IDEA. The combined experience of the members of the Commission is impressive and I look forward to hearing from the panelists.

Again, I would like to thank Mr. Branstad, Mr. Gill and Mr. Hunt for coming here today to share their experiences with the President's Commission and their recommendations for the future of special education.

#### OPENING STATEMENT OF SENATOR ROBERTS

Senator ROBERTS. This reminds me of the TV ad some years ago where you have a fellow sitting in front of the table and about 25 telephones behind him. One rings, he picks up the phone and says,

“Yeah, I can do that. Thank you, sir.” Then another ring and he says, “Yeah, I can do that,” and another ring, “I can do that.” Pretty soon all 25 are ringing and he looks the audience in the eye and says “How am I going to do this?”

I have been, along with staff, going over all of your recommendations, which are good ones, very comprehensive, nine findings, seven dozen recommendations of the findings, and for the life of me I do not know how you do this, unlike Senator Harkin, with the amount of money that we provide you and all of the paperwork burdens.

I wrote down some concerns that I remember when I had the privilege of serving in the other body and we called this the granddaddy of all unfunded mandates. Obviously it was a responsibility and we have that obligation and had some real success but in too many cases it seems to me that local school administrators, especially the administrator, looks upon the idea knowing that it is the responsible thing to do and that they want to do it in an adversarial way.

I do not know how many States are in deficit financing. I think there are 41. We are here, as well, but we have the printing press. They have cut teachers. They have cut programs. Our State tuition has gone up 25 percent. Much of that could be answered, it seems to me, with at least us honoring our obligation, our promise 30 years ago that we were going to fund this by 40 percent.

So I just listed the things I was concerned about then and now. This is a long story. Funding, regulations, paperwork, the lack of quality teachers, although we do have some very fine teachers, but what happens down the road, and the paraprofessionals. We have a situation where some have indicated that in terms of the paraprofessionals we ought to raise the criteria obviously or the training. What happens is you give them training and they do not stay. They find other jobs because the pay is too low.

Then something called trying to get the administrators involved. And then what on earth do we do with the liability question? My distinguished colleague to my right, Senator Sessions, has been very helpful in this regard on what happens when we get into liability questions and you have recommended something called voluntary binding arbitration. I sort of think that is an oxymoron. I do not know how you do voluntary binding arbitration. If that works, that is great.

So now I have sort of read you my concerns here and I credit the report but I am worried here that if we do the 40 percent and we tie in what I think Mr. Gill has indicated, a threshold of excess cost, tying those future funding increases beyond the threshold to improve accountability. We already have a mandate. I do not want son of mandate. I know we want the accountability; I think that is a very noble goal, a very necessary goal, but if we just add in more regulatory demands on top of that.

And I note, Terry, you are talking about focussing on results, not on process. Then you get into the IEP, the individualized education plan. I am wondering what an effective IEP really might look like in Iowa and Kansas, really what it would be.

Then I think it was Commissioner Huntt who said they were having some problems here and we might need some legislation.

So after my rambling rose here in regard to my concern about IDEA, what role would Congress play in reducing the paperwork burden and getting the IEP straightened out and making sure that this is not mandate number two on top of mandate number one, knowing that I think every person on this committee at least supports the 40 percent? In a rare moment I supported a Harkin amendment. Tom is not paying attention to me right now but he will when he hears me say that. I voted for 100 percent because I think it is an unfunded mandate but what specific role are you asking us to do to clear up some of the many recommendations that you have suggested? What is the top thing that you want us to do? Let us just go down the list. Terry, why do you not go first, other than the funding?

Mr. BRANSTAD. And you are keenly aware of the funding issue. I think what we want to do is we want to see the focus moved from process to results. We want the focus on the kids. We want to get the best result for every kid. We have come a long way in this country from 1975 in terms of providing access to education but what we are concerned about is what happens to these kids when they get out of school?

Senator ROBERTS. Exactly.

Mr. BRANSTAD. Are they prepared for the world of work? Can they go on to higher education? And we are saying not enough of them. We can do a better job in that. And by focussing more on results, that is what we think you ought to be doing, is as you look at the reauthorization, how can we change this focus where it is on results and getting the very best for each kid, knowing each kid comes at it with different abilities but nevertheless, let us work with that kid to challenge them to achieve at the very highest level possible. That is what we want for every kid.

Senator ROBERTS. Mr. Gill.

Mr. GILL. I think you brought up a very interesting point when you mentioned that you thought maybe 41 States were in a deficit spending pattern and you could print more if you needed it. I think there is a very complex financial dynamic that exists in schools today, as opposed to 1975, and I think that is why we did not just want to focus on 40 percent, as if that is some battle flag that is going to particularly cure this issue. I personally do not believe it is. I think all of the financial recommendations need to be taken in aggregate to begin to fix the system, as opposed to patch the system.

And I think 40 percent, without any particular parameters associated with that which create flexibility and deal with the very real problem that Senator Harkin already mentioned of an increase in complex needs kids, an increase in accountability and expectations for local school districts, and a decrease in the number of qualified staff out there to provide those kinds of services. I think that is a very volatile situation in which we need help from you, I think, in terms of giving us and districts some direction, some flexibility, some latitude to really begin to solve the problems in special education, as opposed to admire them.

Senator ROBERTS. So it is not 54-40 or fight so much as it is take a look at the results and the specific funding increases that you have recommended here that produce the results.

Mr. Hunt, I do not want to ignore you.

Mr. HUNTT. That is okay, Senator. Feel free to ignore me. I have been uncharacteristically quiet.

Senator ROBERTS. You are a former Marine. Semper fie. Go ahead.

Mr. HUNTT. Thank you, sir.

Mr. BRANSTAD. As chairman of the commission I was accused of ignoring him many times.

Mr. HUNTT. That is right.

Thank you, Senator Roberts. First of all, I would agree with Governor Branstad that the major issue we would like to see you take up is to tie funding with outcomes.

Second, I think we need to maximize our resources. There are all kinds of great pieces of legislation out there that are actually increasing barriers rather than removing them. We need to tie in Ticket to Work. We need to tie in WIA, reauthorization of the Rehab Act and IDEA to maximize those resources, to streamline the resources, to have a seamless point of entry and wrap-around services for kids. Maximize those resources, get rid of the barriers. That is what I would like to see you take up.

Senator ROBERTS. I want to thank all three of you. Thank you very kindly.

Thank you, Mr. Chairman.

Senator HARKIN (presiding). Senator Murray.

#### OPENING STATEMENT OF SENATOR MURRAY

Senator MURRAY. Thank you very much, Mr. Chairman, and thank you to all of our witnesses for the excellent testimony and really for the tremendous amount of effort you have put into this report.

I appreciate many of the commissioners' recommendations. I have some concerns about others. Some of the things that are labeled bureaucratic or burdensome in this report may actually serve a critical role for our students, so I think we need to be very careful about judging that. I have not seen any evidence that shows compliance by schools hinders success for children and I think we need to remember that the civil right to a free and appropriate education is paramount in this conversation and we have to do our part to make sure schools provide that for all students with disabilities.

One issue that your report emphasizes is the importance of general education in ensuring a high quality education for students with disabilities. Many of you know that I have been a strong supporter of smaller class sizes, especially in the early grades, and the research proves what teachers and parents and students tell us, that smaller classes provide better behaved, more successful classrooms.

I wonder if any of you would like to comment on the role that smaller class sizes in our general education classes might play in improving outcomes for children with disabilities.

Mr. GILL. I guess I will certainly respond to that. I think one of the research findings, and I think we mentioned it earlier regarding in terms of the research-based interventions, it seems to certainly indicate that what you are saying is true. It is the intensity of the intervention in a reduced class size environment that seems

to produce the greatest results in terms of reading gains, et cetera. I think it is that kind of practice or that kind of intensity that might, in fact, reduce the number of kids in special education and give them the opportunity to participate fully in a regular education environment and classroom.

Mr. BRANSTAD. In Nashville we heard from a researcher named Sharon Vaughan from I think Vanderbilt University, Peabody College of Education at Vanderbilt University, who has done, I think, some really outstanding research in this area. Basically her recommendation was before a child is put in special education we ought to be working in intensive programs with smaller class sizes or even pull out individual situations to help them get up to speed in reading. And a lot of kids can indeed catch up to their grade level in that kind of an approach and that approach ought to be used in kind of a seamless way.

Senator MURRAY. So it would be preventive, actually. Smaller class sizes in our general education population could prevent misidentification for special education for some students.

Mr. BRANSTAD. Yes. But I think again not just smaller class size. Some kids need more than just a smaller class size. They need some specific special intervention to help them, as well, and we ought to go through that whole continuum before we say that this kid has to be in special education because it may be just with that kind of help and some kids it takes more help than others because different kids learn at different rates.

Senator MURRAY. Commissioner Hunt, I understand you have worked to give children with disabilities the opportunity to use technology. The commission's recommendations touch on the need for tests developed using the principles of universal design and I appreciate that recommendation but I wonder why you addressed assessment only. I am concerned that student access to educational materials in general needs to be addressed. Maybe if you could comment, or any of our commissioners could comment on how our schools can or should use educational materials and technologies that are universally designed.

Mr. HUNTT. Thank you, Mr. Chairman, Senator. We briefly touched on the universal design question. We did not get much more specific on that. I think the use of assistive technology is extremely important to the success not only in school but in post-school activities.

So whatever it takes then to increase access to assistive technology I think most people on the commission, if not all, would agree to that.

Senator MURRAY. Any others?

Mr. GILL. As I recall—I have not read the report obviously in its entirety and I was not on that particular task force, but as I recall it, universal design had a lot to do with the research to practice issue, as I recall, and I think the research to practice issue in terms of universal design is that you are not really focussing on a particular issue as a way in which technology could be enhanced but you are talking about universal access to technology, as well, so that when technology is designed, it is designed with a large variety of issues and abilities as part of the contextual design of that. That is my recollection of the conversation.

Senator MURRAY. Dr. Gill, one other question. In your testimony you suggested that the States should retain no more than 10 percent of Part B funds and should be required to pass the rest on to local districts.

Could you elaborate on why you recommended that change and how you see the States using their part of that fund?

Mr. GILL. Well, one of the reasons I recommended that change, in concert with the other members of the task force, was that we felt like services should go to where the kids are first. And since they are in the local districts, I think the local districts would get the 90 percent—

Senator MURRAY. I appreciate that, coming from someone who works at the State level.

Mr. GILL. The other reason that we sort of recommended flat percents, as opposed to what is current in that you have the 1997 base plus inflation, that, to me, I think is a very unnecessary calculation that you do not need to do. You could accomplish that with generic percentage application. Say we are going to flow 90 percent to local districts of all available funds. Two percent, let us say, would be held for State administrative purposes, 3 percent for some sort of safety net process, and 5 percent for State discretion, consistent with a set of national priorities identified in IDEA. I mean that would be one way to do it and not force States—when we look at the increases that we have had in our State of Washington, which is an 85 percent flow through State right now, and we are restricted to the 1997 base plus inflation, you know what I would say is give me 2 percent and I am going to wind up with more money than you are giving me now.

Senator MURRAY. Thank you very much, Mr. Chairman.

Senator HARKIN. Senator DeWine.

#### OPENING STATEMENT OF SENATOR DEWINE

Senator DEWINE. Thank you, Mr. Chairman.

This committee, our committee, of course, was directly involved in writing the WIA bill, the Workforce Investment Act, and I would like to maybe comment and start with you, Mr. Huntt because you have already mentioned it, and ask you a question about that and how that interfaces with IDEA.

The commission report states, in part, “The Workforce Investment Act limits adult education to individuals who are not enrolled or required to be enrolled in a secondary school. Thus a student cannot be enrolled in a secondary school and also be enrolled in adult education under WIA. Many students with disabilities who left high school before earning a regular high school diploma but who are still entitled to a free, appropriate education under IDEA are barred from receiving the services they need.”

Do you want to elaborate on that? What is barring them and what do we do to fix it? Do we have a problem with IDEA? Do we have a problem with WIA? Do we have a problem with funding? Where are we?

Mr. HUNTT. Senator DeWine, I think that is an excellent question. If there is one term that I have learned in Washington, it is unintended consequences. I think that with some of the Federal legislation we have increased barriers that we wanted to remove.

The fact is that we have a 30 percent success rate on graduating kids with disabilities from high school but then even though we want to see them employed afterwards, WIA comes in and they have indicated that there is a barrier now, that if the child leaves, drops out of school, that they are not eligible then for certain WIA services, and that is where that particular issue comes in.

Senator DEWINE. So it is a WIA problem.

Mr. HUNTT. It is a WIA problem but I think that there really needs to be a translation on what WIA really means with regard to transition from school to work, what IDEA means, and what the Rehab Act means. There is not a real clear understanding from people in the field on where the boundaries are, where the guidelines are.

Senator DEWINE. What do you mean there is not a clear understanding?

Mr. HUNTT. Mr. Chairman, Senator DeWine, we mentioned in the report several places where there is inconsistency on who does what. There was discussion in IDEA where transition services begin at 14 and certain requirements are there but then there is a different set of circumstances when a child reaches the age of 16. So which is it? And I think we just need to have a clear understanding of what the expectations are, especially in my committee, which is the transition from school to work. What is the requirement? And I think you fix it through this reauthorization process here, through IDEA.

Senator DEWINE. It may also be, though, that we have to fix part of it through WIA.

Mr. HUNTT. That is correct.

Senator DEWINE. Maybe it is both. Maybe it is one or the other.

Any other comments from any other members on that? If not, I will move on.

Mr. GILL. Okay, move on.

Mr. HUNTT. No, if you had a comment, that is fine.

Mr. GILL. The only comment I wanted to make is that so much of this is all interactive and you do not touch one piece without the whole thing changing shape at times and I think sometimes we lose sight of the fact that these things do interact. They certainly interact at the local level in terms of policy, in terms of practice.

Senator DEWINE. It is the unintended consequences, as Commissioner Huntt said.

Mr. GILL. Absolutely.

Mr. HUNTT. And Senator, it also brings up the recommendation of creating another task force to look at reauthorization of the Rehab Act because it plays into IDEA or it should play a greater part into IDEA, as well.

Senator DEWINE. More to come. Thank you very much. That is great.

Let me ask another question. Your task force on transition recommends that higher education institutions need to provide assistance to students with disabilities to help them complete post-secondary education. Specifically you state that Federal policy should support and hold accountable all post-secondary institutions that receive Federal dollars. What does that mean? How would you specifically do that?



Mr. HUNTT. Mr. Chairman, Senator DeWine, we heard testimony from professionals in the field of higher education who felt that there was not a very good transition from school to post-secondary education. There was not a tie of funding to outcomes. A student would leave high school and go into post-secondary education and not have the support services that he or she may need to succeed and there was no tie to outcomes then from the Federal funding that that institution of higher ed would have.

So this is a recommendation that provides for more training for professors in the university setting, for instance, on how to educate and work with people with disabilities but also ties outcomes to the funding. We want to see kids succeed in post-secondary education.

Senator DEWINE. But you are talking about actual withholding of dollars?

Mr. HUNTT. Senator, I think it is more of an incentive rather than a withholding. We want to increase dollars where it is appropriate.

Senator DEWINE. Carrot as opposed to a stick?

Mr. HUNTT. Yes, sir.

Senator DEWINE. Thank you very much.

Thank you, Mr. Chairman.

Senator REED (presiding). Thank you, Senator DeWine.

#### OPENING STATEMENT OF SENATOR REED

Let me thank the commissioners and your colleagues for an exhaustive and very thorough report which will be very valuable to all of us as we consider reauthorization. I particularly want to recognize Commissioner Hunt, who is also the CEO of Enable America?

Mr. HUNTT. Yes, sir.

Senator REED. We had a visit by Enable America up in Warwick, Rhode Island and it was a great event. Thank you, Commissioner Hunt.

Let me raise a general question. The theme of the report is results, not process. I frequently observe, and not just in the context of special education but in many different areas, that we lock onto process when we have a hard time defining what the results should be. If you do not know what you want, develop a process and that will be what we measure, what we insist upon. And Governor Branstad, you have suggested the uniqueness of children in the system.

We can talk about results but essentially what results are we talking about and who will set those results? Is it a measure of performance on a general test? Can you elaborate?

Mr. BRANSTAD. There is supposed to be an individualized education plan for each child and really if that works like it should, and what we found is that it works in some places better than others, but what we think is we really need to make sure that that is indeed what it is supposed to be—individualized to meet the needs of that child and there are clear goals and outcomes that you want to achieve and you are measuring that. You cannot do that with one test and it has to be done in a collaborative way. The student and their parents need to be involved, as well as the teachers

and administrators and the other specialists that are involved in the school. Everybody needs to be involved in that.

And I think our concern is in some cases you get a conflict situation between the parents and the school and then what happens is it becomes overfocussed on the process so that the school district can defend itself in court, saying well, we went through and did all of these things that we are supposed to do, so we are okay, as opposed to really sincerely looking at are we achieving the very best we can for this child? And if what we are trying is not working, we had better try something different.

Senator REED. So you are not at all recommending or suggesting that we move away from the structure of IEPs?

Mr. BRANSTAD. No. We are just saying that process needs to be improved and there needs to be more clear outcomes. And I think in the transition area we are saying that there needs to be an involvement in setting employment goals and what happens after they graduate.

It is a sad situation when we hear from school districts they have no idea what has happened to their kids after they have left school, and that is unacceptable.

Senator REED. Many times when the system has been criticized for too much paperwork it is the IEP. Then the second part of it is the adversarial relationship.

Mr. BRANSTAD. Right.

Senator REED. It seems again, from talking to educators and parents back in Rhode Island, that usually it comes down, the adversarial part, to either professional disagreements—a special education professional thinks that a different approach should be taken from the parent—or financial considerations, subtle, perhaps, that we just do not want to spend this money. It might be better for the child but second best will do.

We all recognize that good parents are the best advocates and are the most knowledgeable about their children and they want the best for their children. Do you have any proposals to try to reconcile this difficulty if there is a professional disagreement or a financial situation and it is just the system cannot afford to send the child to the school a parent wants?

Mr. BRANSTAD. I think what we found is that some States have—I think we need to look at best practices and some have really developed some pretty good practices to really include and involve the parents in the process from the very beginning. In other instances the parents feel like they are an afterthought and they get invited to the meeting but there has been a premeeting that has decided everything and we have to get away from that kind of situation so that they really, truly are involved.

We heard from a man who had been a principal in New York City who had done a tremendous involvement of his parents and even before school started when they went to the prekindergarten round-up thing in giving them basically this is what we expect your child to know when they start school, so that they involve the parents from the very beginning and this is what we are expecting from you and then what you can expect from us.

So what we are saying, that collaborative involvement process and interaction between the school leadership and the parents is critically important for this to succeed.

Senator REED. Well, thank you, Governor.

Dr. Gill, and my time is dwindling rapidly, the commission recommended increased funding for Part B, Part C and Section 619 but there was no suggestion for Part D, which funds State improvement grants, professional development, and other activities that will, we hope, make the system better. Any rationale for not recommending?

Mr. GILL. Actually, I think that was a recommendation that is included under professional development and was not incorporated under the finance structure per se because we felt like it was kind of an internal issue, but we certainly do and would support Part D funding. And I think as part of our finance recommendations, as a matter of fact, we strongly suggested that the research component of the financial changes that are contemplated or made in the system need to be evaluated, as well, to determine the impact not only on special ed but on the general education budget, as well.

Senator REED. Thank you, Mr. Gill.

And a very, very quick question, Commissioner Hunt. You have talked a lot about transition of teenagers from high school to the workforce or to postsecondary education. What about those transitions for young kindergarten students with Head Start coordination, with coordination with private preschool? Is that something the commission thought about?

Mr. HUNTT. Mr. Chairman, we really did not talk too much about transition from different school age children except for the fact that we believe that early intervention is very key to success.

Senator REED. Thank you very much, Mr. Commissioner.  
Senator Sessions.

#### OPENING STATEMENT OF SENATOR SESSIONS

Senator SESSIONS. Thank you, Mr. Chairman.

I am so glad that you have done this report. I think it is one of the biggest challenges we face in education. I have traveled Alabama extensively, been in probably 30 schools in the last two, two and a half years, and I try at each school to have some time with a group of principals, teachers, school superintendents, board members come by, and we come back to this issue almost every single time. It is on the front burner of school and education issues.

And you know the thing that is particularly important about it for us is this is Federal. This is a problem we in the Federal Government cannot wash our hands of because we have required it, fundamentally. So it is incumbent on us if we care about education to improve IDEA. It will require more funding to try to meet the commitment we made to schools but in addition to that, teachers and principals are telling me the system is not working.

One wonderful special education teacher with a masters degree, 14 years in the business, she said, "Jeff, I am telling you what we are doing is every day trying to comply with regulations and avoid lawsuits. We have lost sight of what is important for the school and the children and education."

And you have said that in your number one point. I would just like to read it. I think it is important. "IDEA is generally providing basic legal safeguards and access for children with disabilities." I agree. This is finding number one. "However, the current system often places process above results." Exactly what I am hearing. "And bureaucratic compliance above student achievement, excellence and outcomes. The system is driven by complex regulations, excessive paperwork, and ever-increasing administrative demands at all levels for the child, the parent, and the State education agency. Too often simply qualifying for special education becomes an end point, not a gateway to more effective instruction and strong intervention." One of the things you did not discuss is the discipline problem and I will not go into that today but that is on the front burner with teachers.

But Commissioner Gill, I just saw the Washington Education Association survey of problems with IDEA and I thought they were pretty significant and made some real points that are consistent with what I am hearing. The Washington Education Association there, that is your teachers association, released the results of a survey of 4,000 special ed teachers and it reported that nearly two-thirds of the special education teachers in Washington State said they plan to stop teaching disabled students within the next five years. Sixty-eight percent said meeting the needs of Federal law is more difficult than three years ago. The teachers complained of personal safety concerns, massive paperwork requirements, endless meetings and uncompensated overtime. A third of the teachers reported they had been assaulted by students and have been concerned for their safety. When asked if a student poses a threat to themselves or others what is most likely to occur, there were many answers but 12 percent said nothing is done at their school. Only 29 percent of teachers reported receiving immediate support under the current system when they had students that were continually disruptive.

So the challenge here is big. We had a superintendent from Vermont that said 20 percent of his school system's budget went to special ed. So I am glad you have challenged the system.

Governor Branstad, you have been governor and had to deal with this at the high supervisory level, I am sure, in the State. Am I far off base? Do not we have a crisis? Can we not do better in Washington that would help the schools in every county and system in America?

Mr. BRANSTAD. Senator Sessions, you are right on target absolutely. And incidentally, I am impressed with the amount of people out there that really care and want to do something about it. We went all over the country, we held meetings of full commissioner task forces and we heard from a lot of sincere, caring people, many of whom were very frustrated with the system and with what it has meant to their kids or the impact that it has had on their school district.

We had a short time frame but I think there are some very good recommendations that the commission has been able to come up with in this period of time and we hope this is a catalyst to really try to put more focus on results and improve the special education program for all the kids in this country.

Senator SESSIONS. Commissioner Gill, do you think that this thing is sort of reaching a boiling point among the professionals in the business, that there is a growing frustration and that we are really going to lose a lot of good teachers if we do not do something better?

Mr. GILL. Well, I think one of the issues and certainly one of the groups that I met with first and foremost upon my appointment to the commission was the Washington Education Association, as well as the Washington Association of School Administrators, and sometimes got a competing agenda but that is okay.

I think the issues are real. People have asked me about well, is it a recruiting issue of teachers in special education or is it the fact that we are not producing enough? And I guess when I look at data in the State of Washington there are enough certificated staff in the State of Washington to provide special ed-related services for the 122,000 kids we have in our State receiving services, but the fact is they are not choosing to teach special education. They get their degree in special education, they get a certificate in special education, and the first opportunity they get they will jump to a regular fourth grade or regular fifth grade class because they feel absolutely overwhelmed.

That may have a lot to do with their professional training and background. It may have a lot to do with the surrogates for accountability that you mentioned, such as paperwork, et cetera, or substitutes for real accountability. It may also have to do with the growing frustration, but I do not think we can renege on our commitment to students with disabilities; nor do we want to do that. But I think we have to begin to think a little differently about the provision of special ed-related services, as opposed to thinking the way we thought about it before.

And I guess that is kind of the point that I was trying to make in my opening statement, that we have sort of become a system that has been so focussed on maintaining that we have not grown and matured as a discipline and realize that we are not in an initiation of services mode anymore that we were in 1975; we are in an implementation of services mode now and things are a little bit different than they used to be and the dynamic is a little more complex.

So I would agree that our teachers have very serious issues.

Senator SESSIONS. It is very frustrating. I remember distinctly in September visiting a school that was an award-winning elementary school and the principal was just superb and he told me about the first day of school they had made a decision that a child was in the main classroom, normal classroom, it had been 30 minutes a day the previous year and they decided that the child was not benefiting from the normal classroom, had a severe disability. There was an objection and the first day of school beginning at 4:00 till 7:00 there were 15 people meeting in the conference room—lawyers, parents, teachers, counselors, educational experts—wrestling with whether this child—and the final result was that the child would stay in the regular classroom a quarter an hour a day. He did that, he said, to avoid litigation. They just could not afford to litigate this thing.

So we have created regulations that empower and further litigation and we are often not reaching a best judgment about individually what is best for a child. Frankly, I think principals love children, teachers love children, special ed administrators and teachers love children and they want to do what is best.

Governor, you mentioned voluntary, binding arbitration. Is that something you think could reduce the millions, the tens and hundreds of millions of dollars being spent a year in America on litigation over this act?

Mr. BRANSTAD. I think some school districts, some States have had success in that, some kind of mediation where both sides volunteer to submit it to arbitration. So I think it is important to look at best practices out there and what works in some places. As we went around the country, in my State we do not have as big a problem as I heard in some other places and I do not know why that is. I think has more to do with the fact that people have really tried to work things out and they have not had the big problems.

Senator SESSIONS. I think sometimes there is a cottage industry of lawyers. In D.C., we passed some laws that curtailed it and it saved them \$12 million in one year in the District of Columbia in legal fees.

Mr. HUNTT. Senator, if I may, we heard testimony that parents were actually having to take out second mortgages to get their kids the quality of education that they felt they needed. The fact is that most people who testified before our committee said that it is an adversarial environment when you go in for the IEP.

So the idea of the binding arbitration was that both sides realize we are not going to try to out-spend one another but that we are going to come to the table to do what in the best interest for the child. I think as soon as we get to that point, the better off we will all be.

Mr. GILL. And another suggestion was that mediation be available to parents and districts at any time, not simply as a prelude to a due process hearing. Here again I think what you are looking at is dispute resolution, which interestingly enough, one of the parents who had quite an impact on me at one of the hearings came up to me at a break and said, "You know what? I would give up some of the procedural protections and safeguards afforded to me because I am not sure I understand them all, anyway, and I am not sure that when they give me notice four or five times a year that I ought to be getting it, but what I do understand is if they would guarantee me and show that my child is progressing from year to year in terms of academic achievement, I would give them back some of those procedural safeguards."

So I do not think it is a question that the parents are always intent on being adversarial but I think sometimes that adversarial nature has been forced upon them by a system that has failed to respond to the needs of their child. So I do not think it is an either/or question but I think it is both of those things interacting together, and that is probably the most enlightening point of this whole report and if we could have done it in a single recommendation we probably would have. It took a series of recommendations because it is going to take a series of fixes. There is not one thing wrong, there are multiple things wrong, but they can be fixed.

Senator SESSIONS. Thank you, Mr. Chairman.

Thank you for your report. It is time for us now under this reauthorization process to do what we are paid to do and this is a Federal rule, it is affecting every school in America and I think we can make it better.

Senator REED. Thank you, Senator Sessions.

Thank you, gentlemen, for your testimony this afternoon and for your excellent work on the report.

Let me note that the record will be left open for two weeks for additional questions from members of the committee. And again thank you very much. The hearing is adjourned.

[Additional material follows.]

## ADDITIONAL MATERIAL

### RESPONSE TO QUESTIONS OF SENATOR REED FROM GOVERNOR TERRY BRANSTAD

*Question 1.* Given your testimony and the Commission's emphasis on accountability, what is the Commission's position on how a parental choice system would be structured to ensure that private schools, if selected by parents, provide the same level of services, ensure the same civil rights, and measure and report outcomes as required under IDEA?

Answer 1. The question of whether systems of parental choice meet the service, civil rights, and outcomes requirements of IDEA appears to presuppose that IDEA currently requires that IDEA funds be used exclusively to provide services that are consistent with the service, civil rights, and outcomes requirements of IDEA. That is not the case. For example, IDEA clearly provides that a child may be placed by their parent in a private school at the parent's own initiative with public payment for that tuition under IDEA section 612(a)(10)(C)(ii). Such a private school is not required to meet any of the service, civil rights, or outcomes requirements of IDEA. While this only occurs where the school has failed to provide a free appropriate public education for the child, it is a clear instance where IDEA currently pays for private school tuition without the school being required to meet those service, civil rights, or outcome requirements of IDEA.

The same is generally true of children referred to private schools by local education agencies (LEA) under IDEA section 612(a)(10)(B). While the LEA must still assure a state that it is providing services to all children in a manner that is consistent with IDEA (including children placed in private schools), those private schools, as a technical matter, are not bound by the service, civil rights, or outcome requirements of IDEA, even though the LEA may well be using federal IDEA funds to pay that tuition.

IDEA also clearly intends for states and LEAs to pay for services that benefit children in private schools without the service, civil rights, or outcomes measures of IDEA applying to those private schools. The "child find" requirement under IDEA section 612(a)(3) applies to all children, including those in private schools. A state must ensure that all children with disabilities, "are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services." This, in some instances, may require states to provide identification and other services in private schools. Those services can be provided using federal funds but would not create an obligation on the private school to comply with IDEA's service, civil rights, or outcomes requirements.

Finally, in 1997 Congress reaffirmed the obligation of states to serve children in private schools in a manner that is "consistent with the number and location of children with disabilities in the state who are enrolled by their parents in private elementary and secondary schools." IDEA sec. 612(a)(10)(A)(i). IDEA requires that, "[a]mounts expended for the provision of those services by a local educational agency shall be equal to a proportionate amount of Federal funds made available," under Part B, and that "[s]uch services may be provided to children with disabilities on the premises of private, including parochial, schools, to the extent consistent with law." In these instances, IDEA clearly requires states to pay for or provide services to children in private schools without those schools being subject to the service, civil rights, or outcomes requirements of IDEA.

In light of these current requirements in IDEA and other provisions relating to charter schools and other choice programs, the Commission made several comments on how private schools providing services with IDEA funds should operate. In its report, the Commission stated as follows:

"One way to increase choices for students with disabilities is simply to give states more flexibility to use IDEA funds for this purpose. For states that choose to provide more options for students with disabilities, IDEA should make it possible for IDEA funds to follow students to the schools their families choose." The No Child Left Behind Act takes an additional step, requiring states to offer choices for students in schools that do not make adequate progress. IDEA should include parallel requirements, mandating that states allow IDEA funds to follow students with disabilities when they choose to opt out of chronically failing schools or districts. As funding follows students, so should accountability. States should measure and report outcomes for all students benefiting from IDEA funds, regardless of what schools they choose to attend.

This statement is generally consistent with current IDEA private school choice language under section 612(a)(10)(C), but obviously expands the number of children eligible for private services than under that subparagraph. However, the Commis-



sion states that all children, regardless of what schools they attend, must have their outcomes measured and reported by states. This recommendation would apply to all children receiving services under 612(a)(10) or any other private service delivery provision of IDEA. In addition, the Commission's report states as follows:

"The Commission recommends greater flexibility in using federal funds to allow states to create parental choice programs while preserving the student's basic civil rights. However, we recommend that any such program also require schools and programs to be held to the same accountability requirements for public schools, assuring that students achieve excellent results."

IDEA clearly contemplates that "preserving a student's basic civil rights" does not require the application of all of the obligations of IDEA on a private school. The existence of the IDEA sections noted above which do not require application of all IDEA requirements to private schools receiving federal funds demonstrates that Congress does not equate the application of IDEA requirements with the preservation of a student's basic civil rights. Instead, IDEA created a more flexible model, where civil rights are preserved through other means than regulatory compliance, including the ability of a parent to choose an alternative placement for their child. The Commission supported this architecture by supporting civil rights through a flexible model.

The Commission then reaffirmed its view that accountability requirements apply to all children, including those in private schools. In light of the other recommendation that states, "should measure and report outcomes for all students benefiting from IDEA funds," the reference to accountability requirements here after recommending greater flexibility in application of IDEA to all choice schools meant that states should measure and report outcomes for students in private schools.

*Question 2.* As you may know, an existing program in Florida, the McKay Scholarship for Students with Disabilities Program, does not have to comply with these requirements [those outlined in question 1]. Would such a program be acceptable under the Commission's recommendations?

Answer 2. At its April 9-10 hearing in Coral Gables, Florida, the Commission heard from Diane McCain, Director, Choice Office for the Florida Department of Education and John Winn, Assistant Secretary for the Florida Board of Education. They testified to the Commission about the McKay program and other choice programs in Florida.

Based on that testimony, it is our understanding that some schools receiving McKay scholarship funds must comply with IDEA, as they are public schools. According to Ms. McCain, "[t]he program provides . . . both public and private choices." (See Commission Hearing Transcript, April 9, 2002, page 205, lines 9-10.) Further, "the majority of the students who participate in this program are choosing the public school option." (See Transcript page 204, lines 6-8.) Florida is a recipient of IDEA Part B funds. Any public agency receiving McKay scholarship funds for a child whose parent has chosen that agency instead of the LEA to which the child otherwise would have been assigned currently must comply with IDEA. Therefore, if most children receiving McKay scholarships are using them to attend other public schools, the assertion in the question that the McKay scholarship program does not comply with IDEA appears to be inaccurate for most recipients of McKay funds.

Setting aside this apparent disagreement of the applicability of IDEA to the McKay program, the Commission did have some recommendations that would indicate whether the program would "be acceptable under the Commission's recommendations." Based on testimony by Ms. McCain and Mr. Winn, the McKay program's major accountability measure is individual student and parent choice. When parents are dissatisfied with a private school, they can leave that school and select another public or private school. Parents can obtain data from a private school, but that school is not obligated to have its students participate in the Florida public school testing and accountability system and so may not have the same outcome and accountability data available for the parent.

As noted above, the Commission recommended that all programs receiving public funds participate in state student accountability systems. Since Florida relies on parent choice as the ultimate measure of accountability and does not require private schools receiving McKay scholarships to participate in these systems, the Commission's recommendations can properly be read as a recommendation to the state of Florida that its McKay program incorporate such measures into its operations.

*Question 3.* Does the Commission endorse allowing private schools to charge more than the amount of the voucher (with parents making up the difference) as is the case in Florida, or would tuition be limited to the amount of the voucher? Did the Commission consider how to prevent their recommended program of parental choice

from evolving into a subsidy for middle-class and affluent parents, given that less affluent parents likely would not be able to pay additional costs?

Answer 3. Governor Branstad: As to the first question, the Commission's report does not directly address the issue of the amount of a private school tuition or voucher. However, when discussing choice programs generally, the Commission made the following statement:

"The Commission heard testimony from Harvard University Economics Professor Caroline Hoxby suggesting that in order to work properly for students with disabilities, choice programs must provide schools with appropriate resources. Otherwise, schools and districts will not be sufficiently eager to educate students with disabilities especially those with the most significant needs. Consequently, while federal policy should not require them to do so, the Commission recommends that in designing optional choice programs, states allow all available revenues to which the student would have otherwise been entitled not just IDEA funds to follow students to the schools their families choose."

The Commission's discussion on this point addressed choice programs broadly. Professor Hoxby's statements clearly included all forms of choice, such as public school choice, magnet schools, and charter schools. Having all available funds follow a child would not address whether the services purchased with these funds from public school, a charter school, or a private school actually reflect the costs of services. "All available funds" could be more than the cost of private school tuition, or less than a public school's actual average per pupil costs (such as districts who receive supplements from nonprofit foundations in addition to local, state, and federal tax funds). The Commission did not address the issue of private school tuition or vouchers.

*Question 4.* Did the Commission analyze the consequences of and the extent to which a parental choice system would deprive public schools of resources that are needed to provide and improve special education? How can we afford to develop a robust parental choice system and continue to meet our obligation to support public special education programs in states and LEAs?

Answer 4. As noted in the response to question three, the Commission recommended that, "in designing optional choice programs, states allow all available revenues to which the student would have otherwise been entitled not just IDEA funds to follow students to the schools their families choose." The implicit presumption behind this statement is that the funds shifted under a choice program from one public school to another public school, to a charter school, or to a private school, should reflect the costs of educating that child. Public education finance systems should presumably reflect the costs of educating children. If a number of children leave a school system, that school system should have a marginal decrease in costs that would have gone to serving those students. While public school systems typically have other fixed costs related to serving students, the receiving school system, charter school, or private school also have fixed costs. In a reasonably run state and local education system, the cost savings of children leaving one system should be proportionally offset by the reduced funding received by that district from federal, state, or local funds.

For these reasons, it is not possible to answer the first question based on the presumption that a, "parental choice system would deprive public schools of resources that are needed to provide and improve special education." Presumably, any system that "deprives" a system of "needed" resources is one that simply has set funding mechanisms that do not reflect costs properly. Further, the Commission's recommendation that "all available funds" follow the child likely reflects an assumption that many of the fixed costs of general public schools are subsidized through other means, such as bond issues.

As to how "we" can afford to develop a robust parental choice system and continue to meet our obligation to support public special education programs in states and LEAs, the Commission apparently saw no conflict between increased choice and improved public schools. From the Commission's standpoint, choice includes public choice systems such as the free right to transfer to the general or magnet public school of one's choice, or to select a charter school. In those instances, there is no difference between the "obligation to support public special education programs" and to support choice because both are in fact public special education programs.

Further, although not expressly stated in the Commission's report, one of the basic premises of choice programs is that competition improves the quality of public schools. The ability of parents to choose schools other than that to which their children are assigned by a local district encourages those same schools to improve their services or offer new services to children. Choice improves the quality of public schools. To the extent that the Commission supports choice programs, it supports

public special education programs by improving their quality through competition. And therefore, the Commission believes that public schools can afford to support choice and public special education to the limited extent that those two things are not actually both public education.

RESPONSE TO QUESTIONS OF SENATOR CLINTON FROM GOVERNOR TERRY BRANSTAD

*Question 1.* One of the areas that I have become very interested in is the connection between exposure to environmental toxins, such as mold and lead, and students' cognitive development. I worked to include a study of this issue in the No Child Left Behind Act, which will increase our understanding of this connection and make recommendations for addressing the problem. It is critical that we understand this issue for the health and safety of all of our children, but particularly for those with disabilities. As you cite in your report, there is evidence that environmental hazards may lead to disabilities, a problem that is particularly acute among minority students.

Do you have specific recommendations for how we might tackle this issue or are there studies or experts that you recommend that I talk with to better understand the connection between environmental health and disabilities?

Answer 1. The Commission did not hear specific testimony on environmental health issues and did not have any specific recommendations regarding it. I would suggest that you review the National Research Council of the National Academy of Sciences report: *Minority Students in Special and Gifted Education* and contact the National Academy of Sciences that discusses these topics in depth.

*Question 2.* The 1997 IDEA amendments delineated under what circumstances Interim Alternative Educational Settings could be used as an alternative to the "stay put" provision. These settings are designed for short-term placements with the goal of ensuring that students are making progress towards meeting their academic and behavior goals written in their IEP's and functional behavioral assessments. Yet the current regulations fail to define and describe exactly what these settings should look like and what standards they should meet.

To what extent does the Commission believe we should seek to improve the quality of these programs by ensuring that students have access to the full range of related services and high quality behavioral intervention services so that they can return to the classroom and perform their best along with their non-disabled peers?

Answer 2. The Commission was not charged with looking into the discipline provisions of the IDEA. Additionally, because of the complexity and breadth of the issue and the short time the Commission was in operation, we did not take up the discipline issue.

*Question 3.* Special education teachers are in short supply and growing scarcer by the year. In fact, an alarming 98 percent of school districts across the country say that one of their top priorities is to meet the growing demand for special education teachers. Increasingly, districts are looking to people who do not have expertise in special education to fill these vacancies, often resorting to hiring people who are not even certified. According to a Department of Education survey, 37,000 people without appropriate qualifications are providing instruction to students with disabilities and an insufficient number of faculty are being hired to train special education teachers. Last year, over 30 percent of special education faculty positions at universities across the country went unfilled. Until we address this problem, our children, with or without special needs, are going to pay the price as class sizes increase and quality of instruction declines. We just succeeded in providing opportunities for recruiting and retaining qualified teachers and administrators in the No Child Left Behind Act.

The Commission's report addresses this issue briefly, I am interested to hear from you in more detail what the Commissioners believe we should do specifically to remedy this growing problem.

Answer 3. I would refer you to the section of the Report entitled, "Teacher and Administrator Preparation, Training and Retention," which contains the Commission's recommendations on these topics. Also, the Research and Finance sections discuss personnel preparation and training issues. For further information you may also wish to read the transcript from the Professional Development Task Force hearing in Denver, Colorado on March 6, 2002.

RESPONSE TO QUESTIONS OF SENATOR CLINTON FROM COMMISSIONER DOUGLAS GILL

*Question 1.* I am pleased that your Finance Task Force has examined the difficulty in determining how "excess" costs should be measured. As you point out, spe-

cial education is a shared responsibility, one that falls on the shoulders of families, communities, school districts, states and the federal government. However, the current calculation of the federal government's share of excess costs relies on a national average that falls far below the real costs of educating a child with a disability in New York. As a result, the formula provides New York with far fewer dollars than it takes. I believe that any definition and distribution mechanism should recognize the cost differentials across states. The amount that each state receives should be based on the amount that it costs to educate a child with special needs in that state, rather than an average of New York and Mississippi, which results in New York getting less than true excess cost and Mississippi getting far more than their true excess cost.

How do you propose we address these cost differentials across states to ensure a fair, equitable and reliable formula?

Answer 1. Cost differentials across states are in relationship to the determination of the Annual Per Pupil Expenditure (APPE). The APPE is the first factor in the formula for determining (a) total cost and then (b) excess cost. Currently I believe APPE is constructed as a national average. This actually has some advantages for determining a Congressional appropriation, but of course, any system based on averages creates potential inequities.

A proxy for the determination of both total and excess costs that would differentiate by both state and even to the district level is included in the Commission report on page 31. This determination of both total, and subsequently excess cost is important because it may allow states and districts to differentiate between costs on a variety of levels. For example, if you assume the APPE in to be \$7000, the second step in the formula is to multiply the APPE by the assumed cost of special education in relationship to the applicable APPE. The most recent research shows that expenditures in special education across a variety of settings in a variety of states and regions is 1.9 times whatever the APPE is in that state, setting or locale. So, if we assume a APPE of \$7000, the total cost of special education would be 1.9 times that APPE, or \$13,300. A higher or lower APPE would increase or decrease total cost correspondingly. The next step in the proxy calculation is to deduct the applicable APPE. This step is to ensure that students eligible for special education are fully entitled to their basic or general education revenue prior to the assignment of excess costs. Therefore, using the current example of a total cost of \$13,300, a deduction of \$7000 leaves an excess cost of \$6300. This is the amount upon which proportional share assignments should be made. It is also extremely important to note that there should be some specific guidelines and calculations used to determine APPE so that accounting consistency is ensured and there is no unfair advantage created in the determination of the APPE by a state or local district. Accounting inconsistencies would result in manipulation of the formula since the APPE represents the core element.

*Question 2.* I was also interested in your proposal to tie increases in funds to improvements in student performance. As this Committee recognized when it passed the No Child Left Behind Act, accountability is crucial to improving student outcomes. I want to ensure however, that we encourage true improvements in meaningful outcomes rather than encouraging states to lower their standards so that students can meet the bar. The last thing we want to do is to reward states for giving out more diplomas, for example without guaranteeing that getting a diploma is a challenge for all students.

Which indicators would you recommend using to measure accountability? Would you favor using multiple indicators? How would we account for differences in standards between states and if so, how do your recommendations account for these differences?

Answer 2. Currently under IDEA states are required to develop, submit and report on a variety of performance indicators in the area of special education. These performance indicators should represent the starting point for accountability incentives tied to increased funding beyond a prescribed threshold amount. While almost everyone would agree that increased academic achievement against a set of state-wide standards is critical, it is also important to note that increased academic achievement outside the context of increased post school results has little meaning. Students ability to obtain and retain employment, enroll in postsecondary educational programs and link up with out of school agencies and support programs is of paramount importance.

Therefore, the use of multiple indicators across multiple dimensions is obviously the preferred approach. Accounting for differences in standards between states is analogous to differentiating funding amounts. It would be difficult, if not inconsistent, to argue for standardizing outcomes but differentiating funding amounts. It

seems to me that if we intend to recognize that the cost of providing services is variable, it is hard to argue that the results or outcomes will not also be variable. One notion might be to establish a threshold of funding and a similar threshold of expected results. Differences above either threshold would then be applicable on a state by state basis.

*Question 3.* I believe that your recommendation to create a pool of money to help districts deal with very high cost students, particularly when they arrive in a district after budgets have been enacted, is a good one. I am deeply concerned, however, that this solution will not have any meaningful impact if it is not accompanied by new dollars. New York State is struggling with deep budget cuts and has already cut significant chunks from its education budget.

Did you examine the finances of states to see whether pooling the high-cost students will truly have a meaningful impact?

*Answer 3.* There are a series of financial recommendations included in the Commission's report, all intended to grapple with the multiplicity of financial concerns presented by special education in 2002 and beyond. As you are aware, the Commission has recommended an infusion of new dollars into special education. However, that infusion is limited to some extent by discrepancies in the current excess cost calculation and the need to link funding increases above a definable threshold amount, up to an exceeding 40% if necessary to increased accountability. In addition, there are two approaches that the finance task force favors, and believes will allow states and districts to get ahead of the escalating financial curve in special education. A simple infusion of new money will, in and of itself not allow special education to get beyond the financial curve, for the basic reason that when you "get there," the financial target will have moved, and we will left the really difficult financial decisions and strategies in special education to another generation of legislators, states, local districts and families.

My best guess is that there are three sources of "new" money in special education. The first source of "new" money is of course, federal funding increases up to the threshold amount, and incremental amounts above that threshold based on increased performance. With respect to the complex or high need student we can set aside a foundation amount of that "new" money to specifically address the issue of a safety net process.

The second source of "new" money would be the investment income generated from the risk management pool concept discussed in the recommendations. As risk management pool funds growth potential increases these funds can be returned to districts to offset escalating costs in the provision of special education.

The third potential source of "new" money in special education could be Medicaid recovery funding. Currently, Medicaid recovery funds are used to replenish general fund dollars at the state or local level. This particular issue was raised by Senator Kennedy at the hearing of July 9. It would seem practical and in fact, prudent to allow Medicaid dollars generated by eligible students to serve as a pool of funding to supplement safety nets, and/or as a revenue stream for risk management pool development. Either way, the recoverable funds should be directed towards cost reimbursement or leverage for investment in risk pool management.

It is my opinion based on the results of our deliberations and expert testimony, that the combination of these options presents the most viable approach to helping to solve the current financial crisis in special education.

*Question 4.* As you know, when Congress enacted IDEA back in 1975 it pledged to school districts it would help shoulder the burden of guaranteeing a free, appropriate, public education to all students with disabilities. Districts must meet their obligation regardless of the help they get from the federal government. So essentially we have imposed an unfunded mandate on our school districts which are already facing significant budgetary challenges.

*Answer 4.* Due to the volatile nature of special education funding and the lack of implementation of any specific remedies at this point in time, the move from discretionary to mandatory funding was not recommended by the finance task force. While the suggestion of mandatory funding is laudable, it appears premature, and perhaps a bit shortsighted. Before endorsing a mandatory funding approach for special education the task force believes that most, if not all, of the finance recommendations need to be implemented and evaluated. Without a clear and thorough understanding of excess cost, establishing benchmarks for accountability and increased funding above a definable threshold, or fiscal flexibility and investment strategies in place, mandatory funding does not seem prudent. While mandatory funding could be viewed as financial fix to some extent, or the fulfillment of a "promise" of sorts, it would likely create a number of unintended consequences such

as reducing, not increasing state and local flexibility, accelerating and inflating growth rates in special education and possibly mortgaging the future of special education without the benefit of solid and reliable projections.

RESPONSE TO QUESTIONS OF SENATOR CLINTON FROM COMMISSIONER DOUGLAS HUNTT

*Question 1.* I agree that this reauthorization will provide an opportunity to improve transition planning and services so that all our students graduate prepared to move on to college and employment, becoming productive citizens. In New York, under the leadership of Deputy Commissioner Lawrence Gloeckler, who is our State Director for Special Education and Vocational Rehabilitation, we have been looking closely at the relationship between early and effective transition planning and supports to students and post-secondary success. We know the connection is solid and convincing, as we have witnessed graduation rates increase with earlier and more comprehensive transition planning.

How can we strengthen and improve transition services so that students with disabilities are receiving them as early as their non-disabled peers? What do you believe is the appropriate age to begin this process?

Answer 1. One way to ensure that students with disabilities receive transition services as early as their non-disabled peers is to implement research-based, early identification and intervention programs. We should provide early screening, prevention and intervention practices to identify academic and behavioral issues in young children. I believe that the key to having any successful disability program is early intervention. The fact is that people with disabilities learn a dependency model from birth. They also learn very early discrimination, low self-esteem, and failure. Therefore, successful transition strategies should be available to a child at age 12.

*Question 2.* I agree that we must strengthen interagency coordination to improve employment outcomes. Commissioner Gloeckler testified before this committee and he too recommended pooling existing funds to improve transition services. Dr. Gloeckler suggested pooling monies from IDEA, Vocational Rehabilitation (VR), Higher Education Act, Ticket to Work, Medicaid and others to support the services necessary for independent living, education and employment.

Specifically, which pots of money does your vision of pooled funds encompass?

Answer 2. As you noted, the Transition Committee recommended that Congress mandate federal inter-agency coordination of resources through "pooling" funds. Your question of "which pots of money" should be utilized is very important to the success of the recommendation. I believe that there are several agency pockets to be picked. First, if IDEA funding is increased, I believe a portion of the new money should be specified for transition services. It is one of the best long-term investments the Congress can make. We are either going to spend a relative little now or significantly more later. Secondly, through the reauthorization of the Rehab. Act, the Congress should provide for specific rehabilitation dollars to the transition pool. Thirdly, Social Security would benefit the greatest from an effective transition program. More people with disabilities who graduate to competitive employment equates to less people receiving social security disability income; therefore, I would suggest that the SSA allow for reimbursement to VR for transition FTE's within the schools. I don't believe that this would increase the amount of money expended by SSA because there are many states that return unused federal money within the program. Fourthly, one other federal agency that doesn't participate in transition that should is the new Office of Disability Employment Policy at DOL. Last year they received over \$20 million in "new" money. I believe a portion should be given to the federal transition pool. Finally, there are four or five more obvious programs that should be pooled and I believe that they will be discussed more fully as this issues moves forward.

*Question 3.* What role do you believe independent living centers and community rehabilitation providers should play in the transition process? To what extent and how do you believe federal legislation can improve community programs and independent living services involvement in the school?

Answer 3. One of the suggestions that I have made to VR in Ohio, and should be introduced federally, is that we pay independent living centers to provide mentors, as advocates, to participate in the IEP and transition planning process. It would be a great resource to have people with disabilities who have already navigated through school to work as models to young people experiencing the same problems and issues. Young people can see, first hand, that even though times may be tough, there are others just like them that have made it.

*Question 4.* To what extent do you believe we should provide states with the resources to develop data systems to track students' progress as they transition from school to postsecondary education and/or employment?

Answer 4. Your next question relates to the extent that Congress should provide states with the resources to develop data systems to track student progress. I believe the ultimate indicator of success for special education is the employment rate of people with disabilities. We need to prepare students for adult life; therefore, if we don't know how successful transition from school to post-secondary education or competitive employment is, then we don't know how successful our special education program is either. Congress should ensure that schools have the resources and the requirement to track graduation and post-graduation success.

*Question 5.* For students with severe disabilities, there is a need for assistive technology, accommodative services and individualized supports in community, post-secondary education and workplace settings. How do you recommend we address these needs?

Answer 5. Your last question is another very important issue for me. I believe that advances in assistive technology will ultimately provide the answer to low graduation and employment rates for people with significant disabilities. As in my response to question 2, I suggest that, if there is an increase in the IDEA funding, a portion should be earmarked for assistive technology. In addition to the possible increase in funding for AT, I would suggest that a child own whatever technology the school provides for her/him. Technology is normally tailored to meet the needs of the individual; therefore, when a child leaves school the technology becomes useless. In other words, the technology is stored in a closet somewhere. I believe that the child should own the equipment and take it with them wherever they transfer. I also believe that the Tech Act should have the sunset provision removed and that each state program should become more involved with the transition process within the schools.

RESPONSE TO QUESTIONS OF SENATOR WELLSTONE FROM GOVERNOR TERRY  
BRANSTAD

*Question 1.* Your report shows that more than 12,000 special education positions were left vacant or filled with substitutes in 1999-2000. 600,000 students are being taught by uncertified teachers. By 2008, we will need to hire an additional 200,000 special education teachers. Yet, colleges and universities are expected to prepare only ½ the number of teachers needed to fill these vacancies. Special Education teachers leave the field at twice the rate of regular education teachers.

Your report recommends expanding alternative routes to certification. It urges districts to pay teachers more and to improve working conditions so teachers will stay in the field. It says that we need to invest in more experiential training and it wisely and rightly says that professional development needs to be a career long activity.

These are critical recommendations that address a critical problem. Yet, despite the daunting tasks you have laid at the feet of states, districts and universities, your report never recommends increasing funds for IDEA Part D. How do you explain this?

Answer 1. On pages 68 and 71 of the report, the Commission specifically recommends supporting continued investments in IDEA Part D research activities as well as encouraging a "significant increase in Part D funding." Additionally, the sections on Professional Development and Finance make it clear that the Commission favors increases in IDEA Part D. The Commission did stop short of a specific recommendation because those decisions are contingent on competing priorities within the Federal budget..

*Question 2.* You mention that states and districts could waive certain paperwork requirements as part of a pilot project. What paperwork requirements would you permit a state to waive? What paperwork requirements would you not permit a state to waive? How would you choose which states would be able to get these waivers? How would you determine whether their plan actually led to improved student outcomes?

Answer 2. On page 18 of the report, the Commission recommended that the Secretary of Education ask the states that desire to participate in a paperwork reduction pilot project to submit proposals. While the Commission did not have a specific proposal in mind when making the recommendation to support a pilot project for States to waive paperwork requirements, it was anticipated that the Department would review the strength of the plans and select ten states for a trial run. The De-

partment would implement a thorough monitoring process to make sure that the students were being well served and that successful outcomes were being achieved.

[Whereupon, at 4:03 p.m., the hearing was adjourned.]

